In the Supreme Court of Georgia

FALL TERM, 1913

LEO M. FRANK,

PLAINTIFF IN ERROR,

vs.

STATE OF GEORGIA,

DEFENDANT IN ERROR

In Error from Fulton Superior Court
at the July Term, 1913

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In the Supreme Court of Georgia

OCTOBER TERM, 1913

LEO M. FRANK,
Plaintiff in Error
VS.
STATE OF GEORGIA,
Defendant in Error
} From Fulton Superior Court.

BRIEF OF THE EVIDENCE.

MRS. J. W. COLEMAN, sworn for the State.

I am Mary Phagan's mother. I last saw her alive on the 26th day of April, 1913, about a quarter to twelve, at home, at 146 Lindsey Street. She was getting ready to go to the pencil factory to get her pay envelope. About 11:30 she ate some cabbage and bread. She left home at a quarter to twelve. She would have been fourteen years old the first day of June, was fair complected, heavy set, very pretty, and was extra large for her age. She had on a lavender dress, trimmed in lace, and a blue hat. She had dimples in her cheeks.

CROSS EXAMINATION.

The blue hat that is seen here is the hat the little girl had on that day. It had some pale blue ribbon and some flowers when she left home. It was a small bunch of little pink flowers right in the center. We live two blocks from the street car line. There is a store there, at the place she usually gets on the car, kept by Mrs. Smith. Epps is a neighbor of ours. He was a friend of Mary's. He wasn't no special friend of hers.

RE-DIRECT EXAMINATION.

These are the clothes that she wore on the day (State's Exhibit "M".)

GEORGE EPPS, sworn for the State.

I am fourteen years old. I live right around the corner from Mary Phagan's home. I have known her about a year. The last time I saw her was Saturday morning coming to town on the English Avenue car. It was about ten minutes to twelve when I first saw her. I left her about seven minutes after twelve at the corner of Forsyth and Marietta Street. She had on that hat, parasol and things when I left her. She was going to the pencil factory to draw her money. She said she was going to see the parade at Elkin-Watson's at two o'clock. She never showed up. I stayed around there until four o'clock and then I went to the ball game. When I left her at the corner of Forsyth and Marietta, I went under the bridge to get papers and she went over the bridge to the pencil factory, about two blocks down Forsyth Street. I sat with Mary on the car.

CROSS EXAMINATION.

I know what time it was when I met Mary because I looked at Bryant and Keheley's clock at the corner of Oliver and Bellwood, where I caught the car. She caught the car at Oliver and Lindsey and I caught the car at Oliver and Bell Street. She got on before I did, just one block before. I didn't say anything before the Coroner's jury about seeing a clock there, but I did see one. I know it was about seven minutes after twelve when I got off at Marietta Street because I can tell by the sun. I lived in the country and when I got off I looked at the sun. Mary got off the street car with me. No, she didn't ride on to Hunter Street. I am sure of that. She walked on down to the pencil factory on the right-hand side of Forsyth Street.

NEWT LEE (colored), sworn for the State.

On the 26th day of April, 1913, I was night watchman at the National Pencil Factory. I had been night watchman there for about three weeks. When I began working there, Mr. Frank carried me around and showed me everything that I would have to do. I would have to get there at six o'clock on week days, and on Saturday evenings I have to come at five o'clock. On Friday, the 25th of April, he told me "To-morrow is a holiday and I want you to come back at four o'clock." "I want to get off a little earlier than I have been getting off." I got to the factory on Saturday about three or four minutes before four. The front door was not locked. I pushed it open, went on in and got to the double door there. I was paid off Friday night at six o'clock. It was put out that everybody would be paid off then. Every Saturday when I get off he gives me the keys at twelve o'clock, so that if he happened to be gone when I get back there at five or six o'clock I could get in, and every Monday morning I return the keys to him. The front door has always been unlocked on previous Saturday afternoons. After you go inside and come up about middle ways of the steps, there are some double doors there. It was locked on Saturday when I got there. Have never found it that way before. I took my keys and unlocked it. When I went upstairs I had a sack of bananas and I stood to the left of that desk like I do every Saturday. I says like I always do, "Alright, Mr. Frank," and he come bustling out of his office. He had never done that before. He always called me when he wanted to tell me anything and said "Step here a minute, Newt." This time he came up rubbing his hands and says, "Newt, I am sorry I had you come so soon, you could have been at home sleeping, I tell you what you do, you go out in town and have a good time." He had never let me off before that. I could have laid down there in the shipping room and gone to sleep, and I told him that. He says, "You needs to have a good time. You go down town, stay an hour and a half and come back your usual time at six o'clock. Be sure and be back at six o'clock." I then went out the door and stayed until about four minutes to six. When I came back the doors were unlocked just as I left them

and I went and says, "Alright, Mr. Frank," and he says, "What time is it?" and I says, "It lacks two minutes of six." He says, "Don't punch yet, there is a few worked to-day and I want to change the slip." It took him twice as long this time than it did the other times I saw him fix it. He fumbled putting it in, while I held the lever for him and I think he made some remark about he was not used to putting it in. When Mr. Frank put the tape in I punched and I went on down-stairs. While I was down there Mr. Gantt came from across the street from the beer saloon and says "Newt, I got a pair of old shoes that I want to get upstairs to have fixed." I says, "I aint allowed to let anybody in here after six o'clock." About that time Mr. Frank come busting out of the door and run into Gantt unexpected and he jumped back frightened. Gantt says, "I got a pair of old shoes upstairs, have you any objection to my getting them?" Frank says, "I don't think they are up there, I think I saw the boy sweep some up in the trash the other day." Mr. Gantt asked him what sort they were and Mr. Frank said "tans." Gantt says, "Well, I had a pair of black ones, too." Frank says, "Well, I don't know," and he dropped his head down just so. Then he raised his head and says, "Newt, go with him and stay with him and help him find them," and I went up there with Mr. Gantt and found them in the shipping room, two pair, the tans and the black ones. Mr. Frank phoned me that night about an hour after he left, it was sometime after seven o'clock. He says "How is everything?" and I says, "Everything is all right so far as I know," and he says, "Good-bye." No, he did not ask anything about Gantt. Yes, that is the first time he ever phoned to me on a Saturday night, or at all.

There is a light on the street floor just after you get in the entrance to the building. The light is right up here where that partition comes across. Mr. Frank told me when I first went there, "Keep that light burning bright, so the officers can see in when they pass by." It wasn't burning that day at all. I lit it at six o'clock myself. On Saturdays I always lit it, but weekdays it would always be lit when I got there. On Saturdays I always got there at five o'clock. This Saturday he got me there an hour earlier and let me off later. There is a light in the basement down there at the foot of the ladder. He told me to keep that burning all the time. It has two little chains to it to turn on and turn off the gas. When I got there on making my rounds at 7 p. m. on the 26th of April, it was burning just as low as you could turn it, like a lightning bug. I left it Saturday morning burning bright. I made my rounds regularly every half hour Saturday night. I punched on the hour and punched on the half and I made all my punches. The elevator doors on the street floor and office floor were closed when I got there on Saturday. They were fastened down just like we fasten them down every other night. When three o'clock came I went down the basement and when I went down and got ready to come back I discovered the body there. I went down to the toilet and when I got through I looked at the dust bin back to the door to see how the door was and it being dark I picked up my lantern and went there and I

saw something laying there which I thought some of the boys had put there to scare me, then I walked a little piece towards it and I seen what it was and I got out of there. I got up the ladder and called up police station. It was after three o'clock. I carried the officers down where I found the body. I tried to get Mr. Frank on the telephone and was still trying when the officers came. I guess I was trying about eight minutes. I saw Mr. Frank Sunday morning at about seven or eight o'clock. He was coming in the office. He looked down on the floor and never spoke to me. He dropped his head right down this way. Mr. Frank was there and didn't say nothing while Mr. Darley was speaking to me. Boots Rogers, Chief Lanford, Darley, Mr. Frank and I were there when they opened the clock. Mr. Frank opened the clock and said the punches were all right, that I hadn't missed any punches. I punched every half hour from six o'clock until three o'clock, which was the last punch I made. I don't know whether they took out that slip or not. On Tuesday night, April 29th at about ten o'clock I had a conversation at the station house with Mr. Frank. They handcuffed me to a chair. They went and got Mr. Frank and brought him in and he sat down next to the door. He dropped his head and looked down. We were all alone. I said, "Mr. Frank, it's mighty hard for me to be handcuffed here for something I don't know anything about." He said, "What's the difference, they have got me locked up and a man guarding me." I said, "Mr. Frank, do you believe I committed that crime," and he said, "No, Newt, I know you didn't, but I believe you know something about it." I said, "Mr. Frank, I don't know a thing about it, no more than finding the body." He said, "We are not talking about that now, we will let that go. If you keep that up we will both go to hell," then the officers both came in. When Mr. Frank came out of his office that Saturday he was looking down and rubbing his hands. I have never seen him rubbing his hands that way before.

CROSS EXAMINATION.

I don't know how many times I told this story before. Everybody was after me all the time down there at the station house. Yes, I testified at the coroner's inquest and I told them there that Mr. Frank jumped back like he was frightened when he saw Mr. Gantt. I am sure I told them, and I told them that Mr. Frank jumped back and held his head down. I didn't say before the coroner that he said he had given one of the pair of shoes of Mr. Gantt to one of the boys; they got that wrong. On Saturdays I had to wake up usually and get to the factory at twelve o'clock. This time Mr. Frank told me to get back at four. I did say before the coroner that he was looking down when he came out of his office. I told them also that there was a place in that building where I could go to sleep, but they didn't ask me where.

When you come in the front door of the factory, you can go right on by the elevator and right down into the basement, anybody could do it. The fact that the double doors on the steps were locked wouldn't prevent anybody from

going in the basement. That would only prevent anybody from up stairs from going into the basement unless they went by the elevator or by unlocking those double doors. All of the doors to the factory were unlocked when I got back there Saturday afternoon about six o'clock, the first floor, the second floor, the third floor and the fourth floor. Anybody could come right in from the street and go all over the factory without Mr. Frank in his office knowing anything about it. The doors are never closed at all. That is a great big, old, rambling place up there. The shutters, the blinds to the factory were all closed that day because it was a holiday, excepting two or three on the first floor which I closed up that night. It's a very dark place when the shutters are closed. That is why we have to burn a light. There is a light on the first floor near the clock, it burns all the time because that is a dark spot. There are two clocks, one punches to a hundred, the other punches to two hundred, because there are more than a hundred employees. I punch both of them. About Mr. Frank and Mr. Gantt, they had had a difficulty and I knew that Mr. Frank didn't want him in there. Mr. Frank had told me "Lee, I have discharged Mr. Gantt, I don't want him in here, keep him out of here," and he had said, "When you see him hanging around here, watch him." That is the reason I thought Mr. Frank was startled when he saw Mr. Gantt. Mr. Gantt is a great big fellow, nearly seven feet. When he went out I watched him as he went to the beer saloon and I went on upstairs. He left the factory about half past six. I went through the machine room every time I made a punch that night. I went to the ladies dressing room every half hour that night until three o'clock. I went all over the building every half hour, excepting the basement. I went down to the basement every hour that night, but not all the way back. Mr. Frank had instructed me to go over the building every half hour and he said go down in the basement once in awhile. He said go back far enough to see the door was closed. He told me to look out for the dust bin because that is where we might have a fire and to see that the back door is shut and to go over all the building every half hour. No, he didn't give me any different instructions on that Saturday, he didn't tell me not to go in the basement or in the metal department. He allowed me to carry out the instructions just like I had been doing before. Yes, if I had gone back to find out whether that door was closed or not, I would have found the body, but I could see if the door was open, because there was a light back there. No, it wasn't open that night. It was shut when I found the body. It was about ten minutes after I telephoned the police that they arrived. When I was down there I was close enough to the door to see it was shut, there was a light in front of it. There was no light between the body and the door. It was dark back there. The body was about sixty feet from that door. If the back door had been open I could have seen that big light back there in the alley. The back door was closed when I found the body. The first time I went down the basement that night was seven o'clock. I went just a little piece beyond the dark, so I could see whether there was any fire down there. That's what I was looking for. Yes, I could tell whether the door was open

from there. No, I didn't go back as far as they found the body, I didn't go back that far at all during the night. The reason I went that far back when I saw the body was because I went to the closet. There are two closets on the second floor, one on the third floor and one on the fourth floor. I didn't see the lady's hat or shoe when I went down to that little place with my lantern, nor the parasol. My lantern was dirty. I was sitting down there, after I had punched, on the seat, set my lantern on the outside. When I got through I picked up my lantern, I walked a few steps down that way, I seed something over there, about that much of the lady's leg and dress. I guess I walked about three or four feet, or five or six. I guess the body was about ten feet from the closet. As to what made me look in that direction from the closet, because I wanted to look that way. I picked up the lantern to go down there to see the dust bin, to see whether there was any fire there. The dust bin was to the right of me. When I was sitting down there the dust bin was not entirely hid behind the partition. I could see where the dust came down. The balance of the night in order to see whether there was any fire in the dust bin or not I went twenty or twenty-five feet from the scuttle hole, and when I was down in the closet I had to go at least ten feet to see whether or not there was any fire in the dust bin. I would have gone further if I hadn't discovered the body. When I saw the body, the closest I ever got to it was about six feet. I was holding my lantern in my hand. I just saw the feet. When I first saw it I was about ten feet from it. As to how far the body was from where I was sitting in the closet, it was not less than ten feet and not more than thirty. I stood and looked at it to see whether or not it was a natural body. When I first got there I didn't think it was a white woman because her face was so dirty and her hair was so crinkled and there were white spots on her face. When the police came back upstairs they said it was a white girl. I think I reported to the police that it was a white woman. She was lying on her back with her face turned kinder to one side. I could see her forehead. I saw a little blood on the side of her head that was turned next to me. The blood was on the right side of her head. I am sure she was lying on her back. Mr. Frank had told me if anything serious happened to call up the police and if anything like fire to call up fire department. I already knew the number of the station house. I did say at the coroner's inquest that it took Mr. Frank longer to put the tape on this time than it did before. I did not say it took twice as long at the coroner's inquest, because they didn't ask me. I didn't pay any attention to him the first time he put the tape on. The reason the last time I know it took him longer because I held the lever and had to move it backwards and forwards. When I was in the basement one of the policemen read the note that they found. They read these words, "The tall, black, slim negro did this, he will try to lay it on the night" and when they got to the word "night" I said "They must be trying to put it off on me." I didn't say, "Boss, that's me."

RE-DIRECT EXAMINATION.

The first time I saw Mr. Frank put any tape on, he didn't say anything about it being any trouble. The last time he put it on, he said something about that he wasn't used to putting it on. I was holding the lever there and he got it on twice and he had put it on wrong and he would have to slip it out and put it back. When Mr. Frank came out rubbing his hands, he came out of his inner office into the outer office and from there in front of the clock. I did not go down in the basement as far as the boiler during the night, except when I discovered the body.

The officers talked to me the whole time. I didn't get to sleep hardly, day or night. Just the time I would get ready to go to sleep, here they was after me. Then I would go back to my cell, stay a while and then another would come and get me. They carried me where I could sleep, but they wouldn't let me stay there long enough to sleep. I didn't get no sleep until I went over to the jail, and I didn't get no sleep at jail for about two weeks. That was before the coroner's inquest, when I was first arrested. When I went back to the jail I was treated nicely. As to who talked to me longer Mr. Frank or Black, Mr. Black did. Mr. Arnold talked to me longer than Mr. Frank did on April 29th. In the southwest corner is some toilets for men and women

L. S. DOBBS, sworn for the State.

I am a sergeant of police. On the morning of April 27th, at about 5:25 a call came from the pencil factory that there was a murder up there. We went down in Boots Rogers' automobile. When we got there the door was locked. We knocked on the door and in about two minutes the negro came down the steps and opened up the door and said there was a woman murdered in the basement. We went through a scuttle hole, a small trapdoor. The negro lead the way back in the basement, to a partition on the left, leading from the elevator. The basement is about twenty feet wide. The negro lead the way back about one hundred fifty feet and we found the body. The girl was lying on her face, not directly lying on her stomach, with the left side on the ground, the right side up just a little. We couldn't tell by looking at her whether she was white or black, only by her golden colored hair. They turned her over and her face was full of dirt and dust. They took a piece of paper and rubbed the dirt off of her face, and we could tell then that it was a white girl. I pulled up her clothes and we could tell by the skin of her knee that she was a white girl. Her face was punctured, full of holes and was swollen and black. She had a cut on the left side of her head as if she had been struck and there was a little blood there. The cord was around her neck, sunk into the flesh. She also had a piece of her underclothing around her neck. The cord was still tight around her neck. The tongue was pro-

truding just the least bit. I began to look around and found a couple of notes. The cord was pulled tight and had cut into the flesh and tied just as tight as it could be. The underclothing around the neck was not tight. There wasn't much blood on her head. It was dry on the outside. I stuck my finger under the hair and it was a little moist. This scratch pad (State's Exhibit "H") was also lying on the ground, close to the body. The body was lying with the head towards Forsyth Street, the head being near the partition. I found the notes under the sawdust, lying near the head. The body was that of Mary Phagan. The scratch pad was lying near the notes. They were all right close together.

(Witness indicates on diagram of the State where body was found and identifies different parts of the building on the diagram. Witness states that diagram is a (State's Exhibit A) fair representation of the parts identified by him, i. e., main floor and stairs, basement, boiler, partition in basement, spot where notes and body were found, and of the entire building.

CROSS EXAMINATION.

We arrived at the factory about 3:30. Lee told us it was a white woman. It took us some time to determine whether it was a white woman or not. We didn't know until the dust was removed from her face and we pulled up the clothes and looked at the skin. We did not know it prior to that time. We had a lantern with us. One of the officers had a flashlight. Both of the notes were near her head. I don't think they were over six or eight inches apart. No, the one written on the scratch pad was not attached to the pad when I found it. It was laying about ten or twelve inches from it, right close together, and about eight or ten inches from her head was the furthest note. I found the white one first, on the white pad. I discovered the notes on the white paper and the scratch pad about the same time. It was possibly five or ten minutes before I found the other. There was a pile of trash near the boiler where this hat was found and paper and pencils were down there, too. The hat was on the trash pile, so was the shoe. They were right close together on the trash pile. Everything was gone off of it, ribbons and all. It looked like she had been dragged by her feet on her face. I thought I found indications that she had been dragged in the basement, but I couldn't be positive. As to whether Newt Lee could have seen the body from where he was standing I would think that he could have seen the body from where he was standing; I would think that he could have seen the feet and the bulk of the body, he couldn't hardly have seen the head. I don't think he could have seen enough of it to have seen what it was without coming up to it. I made an experiment in the day time to see whether he could see the body or not, and I found he could see the feet, you could see the bulk. Unless he was looking directly for someone. I don't think he could see it. The place where I thought I saw someone dragged was right in front of the elevator, directly back. It began immediately in front of the elevator, right at the bottom of the shaft. The

hat was possibly nearer the elevator than the shoe. That was a dirt floor and cinders on it scattered over the dirt. I thought the places on her face had been made from dragging. I think I saw a little blood on the underclothing. I did not testify before the coroner that the blood ran a little when we moved the body, I didn't say it was liquid. The blood was dry. The little trail where I thought showed the body was dragged went straight on down where the girl was found. It was a continuous trail. The finger joints on her hand worked a little. Back door was shut, staple had been pulled. The lock was locked still, but the staple had been drawn out. It was a sliding door with a bar across the door, but the bar had been taken down. It looked like the staple had been recently drawn. I was reading one of the notes to Lee, with the following words: "A tall black negro did this, he will try to lay it on the night" and when I got to the word "night," Lee says, "That means the night watchman." I had just said the "night" and he said "That means the night watchman." I think the underclothes were torn, not cut, but I am not positive.

RE-DIRECT EXAMINATION.

It was about one hundred fifty feet from the ladder to where we found the body. The ribbon I found was not on the hat, it was on the hair. We made another experiment at night to see whether Newt Lee could have seen the body from where he stood. We placed a bulk about the size of an ordinary body about the same position that this body was found in and you could see the bulk of the body by looking carefully by standing at the spot Newt Lee said he had seen it. A man couldn't get down that ladder with another person. It is a difficult matter for one person to get through the scuttle hole. The signs of dragging that I saw was right at the bottom of the elevator shaft, on the south side of the elevator. The signs of dragging came right around the elevator straight back east of the ladder, it started east of the ladder. A man going down the ladder to the rear of the basement would not go in front of elevator where dragging was. The hasp appeared to have been pulled straight out of the door, on the inside, it was not bent. The body was cold and stiff. Hands folded across the breast. I didn't find any blood on the ground or on the sawdust around where we found the body. Yes, the hasp is bent the least bit. When we got there Sunday morning, I think the elevator was on the second floor. We tried to make Lee run the elevator, but he said he couldn't do it.

FURTHER RE-DIRECT.

I found the handkerchief about ten feet towards the rear beyond the body on a sawdust pile.

RE-CROSS EXAMINATION.

I found it possibly ten or fifteen minutes after we found the body. The handkerchief was bloody just like it is now.

RECALLED FOR THE STATE.

The trap door leading up from the basement was closed when we got there. There were cobwebs and dust back there.

J. N. STARNES, sworn for the State.

I am a city officer. Went to the pencil company's place of business between five and six o'clock, April 27th. The pencil company is located in Fulton County, Georgia. That is where the body was found. The staple to the back door looked as if it had been prized out with a pipe pressed against the wood. There was a pipe there that fitted the indentation on the wood. I called Mr. Frank on the telephone, and told him I wanted him to come to the pencil factory right away. He said he hadn't had any breakfast. He asked where the night watchman was. I told him it was very necessary for him to come and if he would come I would send an automobile for him, and I asked Boots Rogers to go for him. I didn't tell him what had happened, and he didn't ask me. Mr. Frank appeared to be nervous; this was indicated by his manner of speaking to Mr. Darley; he was in a trembling condition. I was guarded with him in my conversation over the phone. About a week afterwards I went to the factory and had the night watchman there, Mr. Hendricks, to show me about the clock. He took a new slip and put it in the clock and punched the slip all the way around in less than five minutes (State's Exhibit P). I got some cord on the second floor of the pencil factory, the knots in those cords are similar to the knots in this cord (State's Exhibit C). On the floor right at the opposite corner, what might be called the northwest corner of the dressing room, on Monday morning, April 28th, I saw splotches that looked like blood about a foot and a half or two feet from the end of the dressing room, some of which I chipped up. It looked like splotches of blood and something had been thrown there and in throwing it had spread out and splattered. There was no great amount of it. I should judge that the area around these spots was a foot and a half. The splotch looked as if something had been swept over it, some white substance. There is a lot of that white stuff in the metal department. It looked like blood. I found a nail fifty feet this side of the metal room toward the elevator on the second floor that looked like it had blood on the top of it. It was between the office and the double doors. I chipped two places off on the back door which looked like they had bloody finger prints. I don't know when Frank was arrested. I don't think he was arrested on Monday. He was asked to come to the station house on Monday. It takes not over three minutes to walk from Marietta Street at the corner of Forsyth across the viaduct and through Forsyth Street down to the pencil factory. Lee was composed at the factory; he never tried to get away. The door to the stairs from the office floor to the third floor was barred when I first went up there.

CROSS EXAMINATION.

I am guessing about the time. It wouldn't take over five minutes to get off the car, walk to the pencil factory, walk in, walk up the stairs and back into Mr. Frank's office. The hasp is bent a little. I heard Boots Rogers testify at the coroner's inquest and I testified twice. I did not correct any statement at the coroner's inquest that Boots Rogers made. I am the prosecutor in this case. I can not give the words of the conversation of the telephone message between myself and Mr. Frank. I could be mistaken as to the very words he used. It was just a casual telephone conversation. I don't know that the splotches that I saw there were blood. The floor at the ladies dressing room is a very dark color. I saw cord like that in the basement, but it was cut up in pieces. I saw a good many cords like that all over the factory. I never found the purse, or the flowers or the ribbon on the little girl's hat. This diagram (State's Exhibit A) is a correct diagram of second floor and basement of pencil company and other places. No. 11 on diagram (State's Exhibit A) is the toilets.

RE-DIRECT EXAMINATION.

I was guarded in what I said over the phone to Mr. Frank though it was just a conversation between two gentlemen. These pieces of wood look like what I chipped off the floor. I turned them over to Chief Lanford. (Referring to State's Exhibit E.)

RECALLED FOR THE STATE.

I saw Mr. Rosser at the coroner's inquest. I never heard him say anything throughout the hearing.

W. W. ROGERS, sworn for the State.

I am now connected with Judge Girardeau's court. I was at the station house Saturday night, April 26th, and went to the National Pencil Company's place of business. It was between five and five thirty that I heard Mr. Starnes have a conversation over the phone. I heard him say, "If you will come I will send an automobile after you." It took us five or six minutes to get out to Mr. Frank's residence at 86 E. Georgia Avenue. Mr. Black was with me. Mrs. Frank opened the door. She wore a heavy bath robe. Mr. Black asked if Mr. Frank was in. Mr. Frank stepped into the hall through the curtain. He was dressed for the street with the exception of his collar, tie, coat and hat. He had on no vest. Mr. Frank asked Mr. Black if anything had happened at the factory. Mr. Black didn't answer. He asked me had anything happened at the factory. I didn't answer. Mr. Frank said, "Did the night watchman call up and report anything to you? " Mr. Black said, "Mr. Frank, you had better get your clothes on and let us go to the factory and see what has happened." Mr. Frank said that he thought he dreamt in the morning

about 3 a. m. about hearing the telephone ring. Mr. Black said something about whiskey to Mrs. Frank in Mr. Frank's presence. Mrs. Frank said Mr. Frank hadn't had any breakfast and would we allow him to get breakfast. I told Mr. Black that I was hungry myself. Mr. Frank said let me have a cup of coffee. Mr. Black in a kind of sideways, said, "I think a drink of whiskey would do him good," and Mrs. Frank made the remark that she didn't think there was any whiskey in the house. Mr. Frank seemed to be extremely nervous. His questions were jumpy. I never heard him speak in my life until that morning. His voice was a refined voice, it was not coarse. He was rubbing his hands when he came through the curtains. He moved about briskly. He seemed to be excited. He asked questions in rapid succession, but gave plenty of time between questions to have received an answer. Mr. Frank and Mr. Black got on the rear seat and I took the front seat and as I was fixing to turn around, one of us asked Mr. Frank if he knew a little girl by the name of Mary Phagan. Mr. Frank says: "Does she work at the factory?" and I said, "I think she does." Mr. Frank said, "I cannot tell whether or not she works there until I look on my pay roll book, I know very few of the girls that work there. I pay them off, but I very seldom go back in the factory and I know very few of them, but I can look on my pay roll book and tell you if a girl by the name of Mary Phagan works there." One of us suggested that we take Mr. Frank by the undertaking establishment and let him see if he knew this young lady. Mr. Frank readily consented, so we stopped at the telephone exchange, Mr. Frank, Mr. Black and myself got out and went in the undertaking establishment. I saw the corpse. The corpse was lying in a little kind of side out room to the right of a large room. The light was not lit in this little room where the body was laying, and Mr. Gheesling stepped in ahead of me and went around behind the corpse and lit the light above her head and her head was lying then towards the wall. I stepped up on the opposite side of the corpse with a door to my left. Mr. Gheesling caught the face of the dead girl and turned it over towards me. I looked then to see if anybody followed me and I saw Mr. Frank step from outside of the door into what I thought was a closet, but I have afterwards found it was where Mr. Gheesling slept, or where somebody slept. There was a little single bed in there. I immediately turned around and came back out, in front of the office. I didn't see Frank look at the corpse. I don't remember that Mr. Frank ever followed me in this room. He may have stopped on the outside of the door, but my back was toward him and I don't know where he stopped. Mr. Gheesling turned the head of the deal girl over towards me and I looked around to see who was behind me and I saw Mr. Frank as he made that movement behind me. He didn't go into the closet as far as I could see, but he got out of my view. He could have looked at the corpse from the time that Mr. Gheesling was going around behind, but he could not have seen her face because it was lying over towards the wall. The face was away from me and I presume that was the cause of Mr. Gheesling turning it over. There was some question asked Mr. Frank if he knew the girl, and I think he replied

that he didn't know whether he did or not but that he could tell whether she worked at the factory by looking at his pay roll book. As we were leaving Mr. Frank's house, Mr. Frank asked Mrs. Frank to telephone Mr. Darley to come to the factory. Mr. Frank was apparently still nervous at the undertaking establishment, he stepped lively. It was just his general manner that indicated to me that he was nervous. I never saw Mr. Frank in my life until that morning. After we got out of Mr. Frank's house and was in my car, was the first time Mr. Frank had been told that the young lady was named Mary Phagan and that there had been any murder committed at the factory. From the undertaker's we went to the pencil factory in my car. We went into Mr. Frank's office, he went up to the safe, turned the combination, opened the safe, took out his time book, laid the book down on the table, ran his finger down until he came to the name Mary Phagan, and said, "Yes, Mary Phagan worked here, she was here yesterday to get her pay." He said, "I will tell you about the exact time she left there. My stenographer left about twelve o'clock, and a few minutes after she left the office boy left and Mary came in and got her money and left." He said she got $1.20 and he asked whether anybody had found the envelope that the money was in. Frank still seemed to be nervous like the first time I seen him. It was just his quick manner of stepping around and his manner of speech like he had done at the house that indicated to me that he was nervous. He then wanted to see where the girl was found. Mr. Frank went around by the elevator, where there was a switch box on the wall and Mr. Frank put the switch in. The box was not locked. Somebody asked him if he was used to keeping the switch box locked. He said they had kept it locked up to a certain time until the insurance company told him that he would have to leave it unlocked, that it was a violation of the law to keep an electric switch box locked. We then stepped on the elevator. He still stepped about lively and spoke up lively, answering questions, just like he had always done. After we got on the elevator, he jerked at the rope and it hung and he called Mr. Darley to start it and we all stepped out of the elevator. Mr. Darley came and pulled at the rope two or three times and the elevator started. As to whether anybody made any statement down in the basement as to who was responsible for the murder, I think Mr. Frank made the remark that Mr. Darley had worked Newt Lee for sometime out at the Oakland plant and that if Lee knew anything about the murder that Darley would stand a better chance of getting it out of him than anybody else. After we came back from the basement it was suggested that we go to the station house and as we started out Mr. Frank says, "I had better put in a new slip, hadn't I, Darley?" Darley told him yes to put in a slip. Frank took his keys out, unlocked the door of the right-hand clock and lifted out the slip, looked at it and made the remark that the slip was punched correctly. Mr. Darley and Newt Lee was standing there at the time Mr. Frank said the punches had been made correctly. Mr. Frank then put in a new slip, closed the door, locked it and took his pencil and wrote on the slip that he had already taken out of the machine, "April 26, 1913." I looked at the slip that Mr. Frank took out

(Defendant's Exhibit I), the first punch was 6:01, the second one was 6:32 or 6:33. He took the slip back in his office. I glanced all the way down and there was a punch for every number. While we were walking through the factory Mr. Frank asked two or three times to get a cup of coffee. As to what Mr. Frank said about the murder, I don't know that I heard him express himself except down in the basement. The officers showed him where the body was found and he made the remark that it was too bad or something to that effect. When we left the factory to go to police headquarters, Newt Lee was under arrest. I never considered Mr. Frank as being under arrest at that time. There had never been said anything to him in my presence about putting him under arrest. Mr. Frank's appearance at the station house was exactly like it was when I first saw him. He stepped quickly, when the door of the automobile was open, he jumped lightly off Mr. Darley's lap, went up the steps pretty rapid.

CROSS EXAMINATION.

I never saw Mr. Frank until that morning. I don't know whether his natural movements or manner of speech were quick or not. We didn't know whether the girl was a white girl or not until we rubbed the dirt from the child's face and pulled down her stocking a little piece. The tongue was not sticking out, it was wedged between the teeth. She had dirt in her eye and mouth. The cord around her neck was drawn so tight it was sunk in her flesh and the piece of underskirt was loose over her hair. I don't know whether Mr. Frank went upstairs or not after we reached his house. I think he called to his wife to get him his collar and tie. He got his coat and vest some place, but I don't know where. At the time Mrs. Frank was calling Mr. Darley, Mr. Frank was putting on his collar and tie down in the reception hall. We were at the house 15 or 20 minutes. After Mrs. Frank had said something about Mr. Frank getting his breakfast before he went, Mr. Black said something about a drink would do good. Mrs. Frank then called her mother, who said that there wasn't any liquor in the house, that Mr. Selig had an acute attack of indigestion the night before and used it all up. Mr. Frank readily consented to go to the undertaker's with us. When we got in the car we told him it was Mary Phagan and he said he could tell whether she was an employee or not by looking at his book, that he knew very few of the girls. Yes, anybody facing the door of the little chapel at the undertaker's could have seen the corpse. As to whether I know that Mr. Frank didn't see the corpse, he could have got a glance at the whole corpse, but when Mr. Gheesling turned the face over no one could have got a good look at the face unless they stepped in the room. Mr. Gheesling turned the young lady's face directly toward me, Mr. Frank was standing somewhere behind me, outside of the room. I turned around to see if Mr. Frank was looking. I don't know that he didn't get a glance at the corpse, but no one but Mr. Gheesling and I at this moment stepped up and looked at the little girl's face. What Mr. Frank and Mr. Black saw behind my back, I can't say. I don't say that Mr.

Frank stepped into that dressing room, but he passed out of my view. So did Mr. Black. Mr. Gheesling had a better view of Mr. Black and Mr. Frank than I did, because my back was to them and Mr. Gheesling was looking straight across the body at them. Mr. Frank had no difficulty in unlocking the safe when we went back to the factory. The elevator we went down on is a freight elevator, makes considerable noise. It stops itself when it gets to the bottom. I don't think it hits the ground. She was lying on her face with her hands folded up. Her face was turned somewhat toward the left wall. A bruise on the left side of her head, some dry blood in her hair. One of her eyes were blackened. There were several little scratches on her face. Somebody worked her arms to see if they were stiff. The arms worked a little bit. The joints in her arms worked just a little bit. When we first went down the basement we stayed down there about 20 or 25 minutes. During that time neither the shoe, the hat, nor the umbrella had been found. In the elevator shaft there was some excrement. When we went down on the elevator, the elevator mashed it. You could smell it all around. It looked like the ordinary healthy man's excrement. It looked like somebody had dumped naturally; that was before the elevator came down. When the elevator came down afterwards it smashed it and then we smelled it. As to the hair of the girl any one could tell at first glance that it was that of a white girl.

RE-DIRECT EXAMINATION.

The body wasn't lying at the undertakers where it could have been seen from the door.

RE-CROSS EXAMINATION.

At the moment the face was turned towards me, I didn't see Mr. Frank but I know a person couldn't have looked into the face unless he was somewhere close to me. I was inside and Mr. Frank never came into that little room.

RE-DIRECT EXAMINATION.

When the face was turned towards me, Mr. Frank stepped out of my vision in the direction of Mr. Gheesling's sleeping room.

MISS GRACE HICKS, sworn for the State.

I knew Mary Phagan nearly a year at the pencil factory. She worked on the second floor. I identified her body at the undertaker's Sunday morning, April 27th. I knew her by her hair. She was fair skinned, had light hair, blue eyes and was heavy built, well developed for her age. I worked in the metal room, the same room she worked in. Mary's machine was right next to the dressing room, the first machine there. They had a separate closet for men and a separate one for ladies on that floor. There was just a partition between them. In going to the office from the closets they would pass the

dressing room and Mary's machine within two or three feet. Mr. Frank, during the past twelve months, would pass through the metal department looking around every day. Sometimes I would see him talking to some of the men in the office at the clocks. He came back to the metal room to see how the work was getting on. The metal is kept in a little closet back under the stair steps. I asked Mr. Quinn, not Mr. Frank, if the metal had come. Saturday at twelve o'clock is the regular pay-day, but the week of April 26th most of the employes got paid off on Friday night between six and seven o'clock. I hadn't worked there since Wednesday. Mr. Quinn called me up and told me that pay-day would be Friday. The metal had not come from Monday to Saturday. Mary didn't work after Monday of that week.

CROSS EXAMINATION.

Standing at the time clock you can't see into Mr. Frank's private office. A person wouldn't see from Mr. Frank's office any one coming in or out of the building. I worked at the factory five years. In that time Mr. Frank spoke to me three times. Mary Phagan worked at the factory with me for about a year in the same department and I never saw Mr. Frank speak to Mary Phagan or Mary Phagan speak to Mr. Frank. When Mr. Frank came through the metal department he never spoke to any of the girls; just went through and looked around. The three times Mr. Frank spoke to me were as follows: He was showing a man around and I was laying on my arm mighty near asleep and he says "You can run this machine asleep can't you," and I said, "Yes, sir." Then another time I asked him for a quarter and he loaned me a quarter. The next time I met him on the street he tipped his hat to me. Mr. Frank knew my face or he wouldn't have spoken to me on the street. The floor in the metal department is awful dirty. The white stuff that they use back there gets all over the floors. Mr. Darley is general manager and foreman who employes the help. Mary Phagan's hair was darker than mine. She weighed about 115 pounds. Sometimes we sit over at the machine and comb our hair and sometimes when I want to curl my hair with a poker or anything, I go over there to the table right by the window and light the gas and curl my hair. Magnolia Kennedy's hair is nearly the color of Mary Phagan's. The pay is given employes from a window in the packing department. There is paint in the polishing room, just across from the dressing room. The door of the polishing room is a few feet across from the dressing room. No paint is kept in the metal room. I have seen drops of paint on the floor. I have seen it leading from the door straight across from the dressing room out to the cooler where the women come out to get water. The floor all over the factory is dirty and greasy. And after two or three days you can't hardly tell what is on the floor after it gets mixed with the dirt and dust. I saw Helen Ferguson Friday, April 25th, when we were paid off.

JOHN R. BLACK, sworn for the State.

I am a city policeman. I don't know the details of the conversation between Mr. Starnes and Mr. Frank over the 'phone. I didn't pay very much attention to it. I went over to Mr. Frank's house with Boots Rogers. Mrs. Frank came to the door. Mrs. Frank had on a bath robe. I stated that I would like to see Mr. Frank and about that time Mr. Frank stepped out from behind a curtain. His voice was hoarse and trembling and nervous and excited. He looked to me like he was pale. I had met Mr. Frank on two different occasions before. On this occasion he seemed to be nervous in handling his collar. He could not get his tie tied, and talked very rapid in asking questions in regard to what had happened. He wanted to know if he would have time to get something to eat, to get some breakfast. He wanted to know if something had happened at the pencil factory and if the night watchman had reported it, and he asked this last question before I had time to answer the first. He kept insisting for a cup of coffee. When we got into the automobile as Mr. Rogers was turning around Mr. Frank wanted to know what had happened at the factory, and I asked him if he knew Mary Phagan and told him that she had been found dead in the basement of the pencil factory. Mr. Frank said he didn't know any girl by the name of Mary Phagan, that he knew very few of the employes. I suggested to Mr. Rogers that we drive by the undertaker's. In the undertaking establishment Mr. Frank looked at her. He gave a casual glance at her and stepped aside. I couldn't say whether he saw the face of the girl or not. There was a curtain hanging near the room and Mr. Frank stepped behind the curtain. He could get no view from behind the curtain. He walked behind the curtain and came right out. Mr. Frank stated as we left the undertaking establishment that he didn't know the girl but he believed he had paid her off on Saturday. He thought he recognized her being at the factory on Saturday by the dress that she wore but he could tell by going over to the factory and looking at his cash book. At the pencil factory Mr. Frank took the slip out, looked over it and said it had been punched correctly. On Monday and Tuesday following Mr. Frank stated that the clock had been mis-punched three times. This slip was turned over to Chief Lanford on Monday. I saw Mr. Frank take it out of the clock and went back with it toward his office. I don't know of my own personal knowledge that it was turned over to Chief Lanford Monday. When Mr. Frank was down at police station on Monday morning Mr. Rosser and Mr. Haas were there. About 8 or 8:30 o'clock Monday morning Mr. Rosser came in police headquarters. That's the first time he had counsel with him. That morning Mr. Haslett and myself went to Mr. Frank's house and asked him to come down to police headquarters. About 11:30 Monday Mr. Haas demanded of Chief Lanford that officers accompany Mr. Frank out to his residence and search his residence. Mr. Haas stated in Frank's presence that he was Mr. Frank's attorney and demanded to show that there was nothing left undone, that we go out to Mr. Frank's house and search for

anything that we might find in connection with the case. On Tuesday night Mr. Scott and myself suggested to Mr. Frank to talk to Newt Lee. Mr. Frank spoke well of the negro, said he had always found him trusty and honest. They went in a room and stayed from about 5 to 10 minutes alone. I couldn't hear enough to swear that I understood what was said. Mr. Frank stated that Newt still stuck to the story that he knew nothing about it. Mr. Frank stated that Mr. Gantt was there on Saturday evening and that he told Newt Lee to let him go and get the shoes but to watch him, as he knew the surroundings of the office. After this conversation Gantt was arrested. Frank made no objections to talking to Newt Lee. Mr. Frank was nervous on Monday. After his release Monday he seemed very jovial. On Tuesday night Frank said at station house that there was nobody at factory at 6 o'clock, but Newt Lee and that Newt ought to know more about it, as it was his duty to look over factory every thirty minutes. Also that Gantt was there Saturday evening and he left him there at 6 o'clock and that he and Gantt had some trouble previous to discharge of Gantt and that he at first refused to allow Gantt to go in factory, but Gantt told him he left a pair of shoes there.

CROSS EXAMINATION.

When I said that Mr. Frank was released I spoke before I thought. I retracted it on cross-examination. I don't know that Mr. Rosser was at the police station between 8 and 8:30 Monday morning, I said that to the best of my recollection. I wouldn't swear Mr. Rosser was there. I heard Mr. Rosser say to Mr. Frank to give them a statement without a conference at all between Mr. Frank and Mr. Rosser. I said that we wanted to have a private talk with Mr. Frank without Mr. Rosser being present. I wanted to talk to Mr. Frank without Mr. Rosser being present. While I was at the coroner's inquest Mr. Frank answered every question readily. I wouldn't swear positively, but to the best of my recollection I had a conversation with Mr. Frank on two previous occasions. When I met Mr. Frank on previous occasions I don't remember anything that caused me to believe he was nervous, nothing unusual about him. I heard the conversation Mr. Starnes had over the telephone with Mr. Frank early that morning. It was about a quarter to six, or a quarter past six. I think we got to the undertaker's about 6:20. As to the reason why I didn't tell Mr. Frank about the murder when I was inside the house, but did tell him as soon as he got in the automobile, I had a conversation with Newt Lee and I wanted to watch Mr. Frank and see how he felt about the murder. Mr. Frank didn't go upstairs and put his collar and cravat on. Mrs. Frank brought him his collar and tie, I don't know where she got them. He told her to bring his collar and tie and he got his coat and hat. I don't know whether he went back to his home or not. He put his collar and tie on right there. I don't know where he got his coat and vest at. I don't know what sort of tie or collar he had. He put his collar and tie on like anybody else would; tied it himself. I don't know

whether Mr. Frank finished dressing upstairs or not. I couldn't see him when he went behind those curtains. We stayed at the Frank home about ten minutes. At the undertaking establishment I was right behind Mr. Frank. He was between me and the body. I saw the face when the undertaker turned her over. Yes, Mr. Frank being in front of me had an opportunity to see it also. No, Mr. Frank didn't go into that sleeping room. Mr. Frank went out just ahead of me. When we went back to the pencil factory Mr. Frank went to the safe and unlocked it readily at the first effort. He got the book, put it on the table, opened it at the right place, ran his finger down until he came to the name of Mary Phagan and says, "Yes, this little girl worked here and I paid her $1.20 yesterday." We went all over the factory that day. Nobody saw that blood spot that morning. I guess there must have been thirty people there during that day. Nobody saw it. I was there twice that day. Mr. Starnes was there with me. He didn't call attention to any blood spots. Chief Lanford was there, and he didn't discover any blood spots. Mr. Frank was at the police station on Monday from 8:30 until about 11:30. Mr. Frank told me he had discharged Mr. Gantt on account of shortage and had given orders not to let him in the factory. As regards Mr. Frank's linen, Mr. Haas said he was Mr. Frank's attorney and requested that we go to Mr. Frank's house and look over the clothes he had worn the week before and the laundry too. Yes, we went out there and examined it. Mr. Frank had had no opportunity to telephone his house from the time we mentioned it until we got out there. He went with us and showed us the dirty linen. I examined Newt Lee's house. I found a bloody shirt in the bottom of a clothes barrel there on Tuesday morning about 9 o'clock.

RE-DIRECT EXAMINATION.

Mr. Frank had told me that he didn't think Newt Lee had told all he knew about the murder. He also said after looking over the time sheet and seeing that it hadn't been punched correctly that that would have given Lee an hour to have gone out to his house and back. I don't know when he made this last statement. I don't remember whether that was before or after I went out to Lee's house and found the shirt. We went into his house with a skeleton key. It was after Frank told me about the skips in the punches. The shirt is just like it was the day I found it. The blood looks like it is on both sides of the shirt.

RE-CROSS EXAMINATION.

I don't know whether I went out to Lee's house before or after Mr. Frank suggested the skips in the time slips. I don't like to admit it, but I am so crossed up and worried that I don't know where I am at, but I think to the best of my knowledge it was Monday that Frank said that the slips had been changed.

MRS. J. W. COLEMAN, re-called for the State.

Mary carried a little silver mesh bag the day she left her home, made of German silver. This looks like the handkerchief that she carried. (State's Exhibit "M.")

J. M. GANTT, sworn for the state.

From June last until the first of January I was shipping clerk at the National Pencil Company. I was discharged April 7th by Mr. Frank for alleged shortage in the pay roll. I have known Mary Phagan when she was a little girl. Mr. Frank knew her, too. One Saturday afternoon she came in the office to have her time corrected, and after I had gotten through Mr. Frank came in and said, "You seem to know Mary pretty well." No, I had not told him her name. I used to know Mary when she was a little girl, but I have not seen her up to the time I went to work for the factory. My work was in the office and she worked in the rear of the building on the same floor in the tip department. After I was discharged, I went back to the factory on two occasions. Mr. Frank saw me both times. He made no objection to my going there. One girl used to get pay envelopes for another girl with Mr. Frank's knowledge. There was an alleged shortage in the pay roll of $2.00. Mr. Frank came to see me about it and I told him I didn't know anything about it, and he said he wasn't going to make it good, and I said I wasn't, and he then discharged me. Prior to my being discharged Mr. Frank told me he had the best office force he ever had. I was the time keeper. Mr. Frank could sit at his desk and see the employees register at the time clock if the safe door was closed. Mr. Frank did not fix the clock frequently, possibly two or three times. On April 26, about six o'clock I saw Newt Lee sitting out in front of the factory and I remembered that I left a pair of shoes up there and I asked Newt Lee what about my getting them, and he said he couldn't let me up. I said Mr. Frank is up there, isn't he? because I had seen him in the window from across the street, and while we were standing there talking, in two or three minutes, Mr. Frank was coming down the stairway and got within fifteen feet of the door when he saw me and when he saw me he kind of stepped back like he was going to go back, but when he looked up and saw that I was looking at him he came on out, and I said "Howdy, Mr. Frank," and he kind of jumped again. I told him I had a pair of shoes up there I would like to get and he said, "Do you want to go with me, or will Newt Lee be all right?" and he kind of studied a little bit, and said, "What kind of shoes were they?" and I said, "They were tan shoes," and he said, "I think I saw a negro sweeping them up the other day." And I said, "Well, I have a pair of black ones there, too," and he kind of studied a little bit, and said "Newt, go ahead with him and stay with him until he gets his shoes," and I went up there and found both pair right where I had left them. Mr. Frank looked pale, hung his head, and nervous

and kind of hesitated and stuttered like he didn't like me in there somehow or other.

CROSS EXAMINATION.

I testified at the coroner's inquest. I admit I did not testify about Frank's knowing Mary very well there, that has been recalled to my mind since I was arrested on Monday, April 28th, at 11 o'clock and held until Thursday night about six.

MRS. J. A. WHITE, sworn for the State.

I saw my husband at the pencil factory at 11:30. I stayed there until about 10 minutes to 12. I left him there and came back about 12:30 and left again about 1 o'clock. When I got there at 11:30 I saw Miss Hall, the stenographer, Mr. Frank and two men. I asked Mr. Frank if I could see my husband Mr. White. Mr. Frank was in the outside office then. He said I could see him and sent word by Mrs. Emma Freeman for him to come downstairs. My husband came to the foot of the stairs on the second floor. I talked to him about 15 minutes and went on out. I returned about 12:30. Mr. Frank was in the outside office standing in front of the safe. I asked him if Mr. White had gone back to work. He jumped like I surprised him and turned and said, "Yes." It wasn't much of a jump. I went upstairs then to see Mr. White. Harry Denham was with him working on the fourth floor. They were hammering. It was not a continuous noise they were making. I heard the hammer not more than once or twice. Mr. Frank came upstairs while I was up there, somewhere about 1 o'clock. I know it was before one because at one I was at McDonald's furniture store, four or five blocks from the factory. I got there a few minutes after one. Mr. Frank told Mr. White if I wanted to get out before 3 o'clock, to come on down because he was going to leave and lock the door, that I had better be ready to go as soon as he got his coat and hat. I went on out and as I passed he was sitting in the outside office writing at a table. As I was going on down the steps I saw a negro sitting on a box close to the stairway on the first floor. Mr. Frank did not have his coat or hat on when I passed out.

CROSS EXAMINATION.

I left the factory about 1 o'clock. I wouldn't say that it was positively ten minutes to one. While I was talking to my husband at the factory, Miss Corinthia Hall, May Barrett and her daughter were there. Mrs. Barrett had been upstairs and her daughter came down afterwards. Miss Hall and Mrs. Freeman left first, Mrs. Barrett and her daughter left next and then I went. That was about ten minutes to twelve. I saw the negro sitting between the stairway and the door about five or six feet from the foot of the stairway. I wouldn't be able to identify him.

HARRY SCOTT, sworn for the state.

I am Superintendent of the local branch of the Pinkerton Detective Agency. I have worked on this case with John Black, city detective. I was employed by Mr. Frank representing the National Pencil Company. I saw Mr. Frank Monday afternoon, April 28, at the pencil factory. We went into Mr. Frank's private office. Mr. Darley and a third party were with us. Mr. Frank said, "I guess you read in the newspapers about the horrible crime that was committed in this factory, and the directors of this company and myself have had a conference and thought that the public should demand that we have an investigation made, and endeavor to determine who is responsible for this murder." And Mr. Frank then said he had just come from police barracks and that Detective Black seemed to suspect him of the crime, and he then related to me his movements on Saturday, April 26th, in detail. He stated that he arrived at the factory at 8 a. m., that he left the factory between 9:30 and 10 with Mr. Darley for Montag Bros. for the mail, that he remained at Montag Bros. for about an hour; that he returned to the factory at about 11 o'clock, and just before twelve o'clock Mrs. White, the wife of Arthur White, who was working on the top floor of the building that day with Harry Denham, came in and asked permission to go upstairs and see her husband. Mr. Frank granted her permission to do so. He then stated that Mary Phagan came in to the factory at 12:10 p. m. to draw her pay; that she had been laid off the Monday previous and she was paid $1:20; that he paid her off in his inside office where he was at his desk, and when she left his office and went in the outer office, she had reached the outer office door, leading into the hall and turned around to Mr. Frank and asked if the metal had come yet; Mr. Frank replied that he didn't know and that Mary Phagan then he thought reached the stairway, and he heard voices, but he could not distinguish whether they were men or girls talking, that about 12:50 he went up to the fourth floor and asked White and Denham when they would finish up their work and they replied they wouldn't finish up for a couple of hours; that Mrs. White was up there at the time and Frank informed Mrs. White that he was going to lock up the factory, that she had better leave; Mrs. White preceded Mr. Frank down the stairway and went on out of the factory as far as he knew, but on the way out, Mrs. White made the statement that she had seen a negro on the street floor of the building behind some boxes, and Mr. Frank stated that at 1:10 p. m. he left the factory for home to go to luncheon; he arrived at the factory again at 3 p. m., went to work on some financial work and at about four o'clock the night watchman reported for work, as per Mr. Frank's instructions the previous day; that he allowed Newt Lee to go out and have a good time for a couple of hours and report again at six o'clock, which Newt did and at six o'clock when Lee returned to the factory, he asked Mr. Frank, as he usually did, if everything was all right, and Mr. Frank replied "Yes" and Lee went on about his business. Mr. Frank left the factory at 6:04 p. m. and when he

reached the street door entrance he found Lee talking to Gantt, an ex-bookkeeper who Frank had discharged for thieving. Mr. Frank stated that he had arrived home at about 6:25 p. m. and knowing that he had discharged Gantt, he tried to get Lee on the telephone at about 6:30; knowing that Lee would be in the vicinity of the time clock at that time and could hear the telephone ring; that he did not succeed in getting him at 6:30, but that he got him at seven; that he asked Lee the question if Gantt had left the factory and if everything was all right, to which Lee replied "Yes," and he hung up the receiver. Mr. Frank stated he went to bed somewhere around 9:30.

After that Mr. Frank and Mr. Darley accompanied me around the factory and showed me what the police had found. Mr. Darley being the spokesman. We went first to the metal room on the second floor, where I was shown some spots supposed to be blood spots, they were already chipped up, and I was taken to a machine where some strands of hair were supposed to have been found. From there we went down and examined the time clock and went through the scuttle hole and down the ladder into the basement, where I was shown where everything had been found. As to Mr. Frank's manner and deportment at the time we were in his office, he seemed to be perfectly natural. I saw no signs of nervousness. Occasionally between words he seemed to take a deep breath, and deep sighs about four or five times. His eyes were very large and piercing. They looked about the same they do now. He was a little pale. He gave his narrative rather rapidly. As to whether he stated any fixed definite time as to hours or minutes, he didn't state any definite time as to when Mary Phagan came in, he said she came in at about 12:10. We furnished attorneys for Frank with reports. After refreshing my memory I now state that Mr. Frank informed me at the time I had that conversation with him that he heard these voices before 12 o'clock, before Mary Phagan came. He also stated during our conversation that Gantt knew Mary Phagan very well, that he was familiar and intimate with her. He seemed to lay special stress on it at the time. He said that Gantt paid a good deal of attention to her. As to whether anything was said by any attorney of Frank's as to our suppressing any evidence as to this murder, it was the first week in May when Mr. Pierce and I went to Mr. Herbert J. Haas' office in the 4th National Bank Building and had a conference with him as to the Pinkerton Agency's position in the matter. Mr. Haas stated that he would rather we would submit our reports to him first before we turned it over to the public and let them know what evidence we had gathered. We told him we would withdraw before we would adopt any practice of that sort, that it was our intention to work in hearty co-operation with the police.

I saw the place near the girls' dressing room on the office floor, fresh chips had already been cut out of the floor and I saw white smeared where the chips had been cut out and there were also some dark spots near the

chipped out places. It was just as though somebody had taken a cloth and rubbed some white substance around in a circle, about eight inches in diameter. This white stuff covered all of the dark spots. I didn't note any unusual signs of nervousness about Frank in his office. There wasn't any trembling or anything of that sort at that time. He was not composed. On Tuesday night, April 29, Black, Mr. Frank and myself were together and Mr. Black told Mr. Frank that he believed Newt Lee was not telling all that he knew. I also said to Mr. Frank that Newt knew more than he was telling, and that as he was his employer, I thought he could get more out of the nigger than we could, and I asked him if he would consent to go into a room as employer and employee and try to get it out of him. Mr. Frank readily consented and we put them in a private room, they were together there for about ten minutes alone. When about ten minutes was up, Mr. Black and I entered the room and Lee hadn't finished his conversation with Frank and was saying, "Mr. Frank it is awful hard for me to remain handcuffed to this chair," and Frank hung his head the entire time the negro was talking to him, and finally in about thirty seconds, he said, "Well, they have got me too." After that we asked Mr. Frank if he had gotten anything out of the negro and he said, "No, Lee still sticks to his original story." Mr. Frank was extremely nervous at that time. He was very squirmy in his chair, crossing one leg after the other and didn't know where to put his hands; he was moving them up and down his face, and he hung his head a great deal of the time while the negro was talking to him. He breathed very heavily and took deep swallows, and sighed and hesitated somewhat. His eyes were about the same as they are now. That interview between Lee and Frank took place shortly after midnight, Wednesday, April 30. On Monday afternoon, Frank said to me that the first punch on Newt Lee's slip was 6:33 p. m., and his last punch was 3 a. m. Sunday. He didn't say anything at that time about there being any error in Lee's punches. Mr. Black and I took Mr. Frank into custody about 11:30 a. m. Tuesday, April 29th. His hands were quivering very much, he was very pale. On Saturday, May 3, I went to Frank's cell at the jail with Black and I asked Mr. Frank if from the time he arrived at the factory from Montag Bros. up until 12:50 p. m., the time he went upstairs to the fourth floor, was he inside of his office the entire time, and he stated "Yes." Then I asked him if he was inside his office every minute from 12 o'clock until 12:30 and he said "Yes." I made a very thorough search of the area around the elevator and radiator and back in there. I made a surface search. I found nothing at all. I found no ribbon or purse, or pay envelope, or bludgeon or stick. I spent a great deal of time around the trap door and I remember running the light around the door way right close to the elevator, looking for splotches of blood, but I found nothing.

CROSS EXAMINATION.

Yes, I sent you this report as to what happened between Mr. Herbert J. Haas and myself: "This afternoon Supt. H. B. Pierce and myself held a conference with Mr. Herbert Haas, at which the agency's position in the matter was discussed, and Mr. Haas stated they wanted to learn who the murderer was, regardless of who it involved." Mr. Haas told me that after I had told him we would withdraw from the case before we would not co-operate with the police. No, I did not report that to you. I reported the motive of our conference. No, I did not say anything about Mr. Haas wanting us to do anything except locate the murderer. Yes, I talked to you afterwards and you also told me to find the murderer, even if it was Frank. Mr. Haas had said to Mr. Pierce and me that he would rather that we submit our reports of evidence to him before we turned it over to the police. No, there was nothing said about not giving this to the police. I testified at the coroner's inquest as to what conversation I had with Mr. Frank. I did not give you in my report the details of Mr. Frank's morning movements, when he left home, arrived at the factory and went to Montag Bros., and returned to the factory. As to my not saying one word about Gantt being familiar with this little girl, that was just an oversight, that is all. No, I did not testify to that either at the coroner's inquest. I didn't put it in the report to you, because Gantt was released the next day and I didn't consider him a suspect. There was no reason for my not giving it to you. It was an oversight. I am representing the National Pencil Company, who employed me, and not Mr. Frank individually. It is true in my report to you with reference to the interview between me and Mr. Frank that I stated "I had no way of knowing what they said because they were both together privately in a room there and we had no way of knowing except what Lee told us afterwards." I now state that I did hear the last words of Lee. I didn't put in my notes that Gantt was familiar with Mary Phagan, I don't put everything in my notes and the coroner didn't examine me about it either. No, I didn't tell the coroner anything about Frank crossing his legs and putting his hands up to his face. I never went into detail down there. No, I didn't mention his hanging his head. We always work with the police on criminal cases. No, I did not testify before the coroner about any white stuff having been smeared over these supposed blood spots. I am not sure whether I got the statement about Mary Phagan being familiar with Gantt from Mr. Darley or Mr. Frank. Mr. Frank was present at the time. Mr. Frank told me when the little girl asked if the metal had come back that he said "I don't know." It may be true that I swore before the coroner that in answer to that question from Mary Phagan as to whether the metal had come yet that Frank said, "No," and it is possible that I so reported to you. If I said "No," I meant "I don't know." I say now that Mr. Frank told me he left the factory at 1:10 p. m. If I reported to you that he told me he left at one o'clock, I made a very

serious mistake. That is an oversight. Yes, I reported to the police before I reported to Mr. Haas or Mr. Montag.

RE-DIRECT EXAMINATION.

Yes, our agency reported to the police about finding the club. I find it is in our report of May 15th. I don't know when it was reported; I was out of town. I worked all through this case with Detective Black and every move he made was known to both of us. As to the stairway from the basement to the upper floor, there was a great deal of dust on the stairs and the dust didn't seem to be disturbed. This stairway is not in the picture but is near the back door. It was nailed and closed.

MISS MONTEEN STOVER, sworn for the State.

I worked at the National Pencil Company prior to April 25th, 1913. I was at the factory at five minutes after twelve on that day. I stayed there five minutes and left at ten minutes after twelve. I went there to get my money. I went in Mr. Frank's office. He was not there. I didn't see or hear anybody in the building. The door to the metal room was closed. I had on tennis shoes, a yellow hat and a brown rain coat. I looked at the clock on my way up, it was five minutes after twelve and it was ten minutes after twelve when I started out. I had never been in his office before. The door to the metal room is sometimes open and sometimes closed.

CROSS EXAMINATION.

I didn't look at the clock to see what time it was when I left home or when I got back home. I didn't notice the safe in Mr. Frank's office. I walked right in and walked right out. I went right through into the office and turned around and came out. I didn't notice how many desks were in the outer office. I didn't notice any wardrobe to put clothes in. I don't know how many windows are in the front office. I went through the first office into the second office. The factory was still and quiet when I was there. I am fourteen years old and I worked on the fourth floor of the factory. I knew the paying-off time was twelve o'clock on Saturday and that is why I went there. They don't pay off in the office, you have to go up to a little window they open.

RE-DIRECT EXAMINATION.

The door to the metal room is sometimes closed and sometimes open. When the factory isn't running the door is closed.

R. P. BARRETT, sworn for the State.

I am a machinist for the National Pencil Company. I have been there about eight weeks. On Monday morning, April 28th, I found an unusual spot

that I had never seen before at the west end of the dressing room on the second floor of the pencil factory. That spot was not there Friday. The spot was about 4 or 5 inches in diameter and little spots behind these from the rear—6 or 8 in number. I discovered these between 6:30 and 7 o'clock Monday. It was blood. It looked like some white substance had been wiped over it. We kept potash and haskoline, both white substances, on this floor. This white stuff was smeared over the spots. It looked like it had been smeared with a coarse broom. There was a broom on that floor, leaning up against the wall. No, the broom didn't show any evidence of having been used, except that it was dirty. It was used in the metal department for cleaning up the grease. The floor was regularly swept with a broom of finer straw. I found some hair on the handle of a bench lathe. The handle was in the shape of an "L." The hair was hanging on the handle, swinging down. Mell Stanford saw this hair. The hair was not there on Friday. The gas jet that the girls sometimes use to curl their hair on is about ten feet from the machine where the hair was found. Machine Number is No. 10. It is my machine. I know the hair wasn't there on Friday, for I had used that machine up to quitting time, 5:30. There was a pan of haskoline about 8 feet from where the blood was found. The nearest potash was in vats in the plating department, 20 or 25 feet away. The latter part of the week I found a piece of a pay envelope (State's Exhibit U) under Mary Phagan's machine. I have examined the area around the elevator on the main floor and I looked down the ladder and I never saw any stick. I did not find any envelope or blood or anything else there.

CROSS EXAMINATION.

I never searched for any blood spots before, until Miss Jefferson came in and said she understood Mary had been murdered in the metal department, then I started to search right away; that was the only spot I could find; I could tell it was blood by looking at it. I can tell the difference between blood and other substances. I found the hair some few minutes afterward—about 6 or 8 strands of hair and pretty long. When I left the machine on Friday I left a piece of work in there. When I got back the piece of work was still there. It had not been disturbed. The machine was in the same position in which I left it Friday night; there was no blood under this machine. There is no number or amount on the envelope I found, and no name on it, just a little loop, a part of a letter. Yes, I have been aiding Mr. Dorsey and the detectives search the building. Yes, Mr. Dorsey subpoenaed me to come to his office; it was a State subpoena. I gave him an affidavit.

MELL STANFORD, sworn for the State.

I have been working at the National Pencil Company a little over two years. I swept the whole floor in the metal room of Friday, April the 25th. On Monday there after I found a spot that had some white haskoline over it

on second floor near dressing room. That wasn't thereon Friday when I swept between 9 and 12 o'clock. I use a small broom in sweeping. I saw a big cane broom standing by the waste metal room on Monday about six feet from where the blood was found. The spot looked to me like it was blood, with dark spots scattered around. It looked like the large broom had been used in putting the haskoline on the floor by the impressions or scratches of the cane in the floor.

CROSS EXAMINATION.

I was a sweeper in the metal room. Yes, they have regular negro sweepers there for the building. I swept it all up because the negro wasn't there. It took me from 9 till 12 to sweep the whole floor. I moved everything and swept everything. I swept under Mary Phagan's and Barrett's machine. Next to the ladies' closet they store a lot of different things, mineral paints, barrels, boxes, all sort of things. That's part of the metal room where they are kept. I swept clear up to the doors of the toilets and clear up to the paint shop. It wasn't my duty to sweep where the machines are and where Mary worked but I did sweep there anyhow. I have done that several times before. There were paint spots in several different places up there when I swept up Friday. These blood spots were right in front of the ladies' dressing room. They led right up to the door.

MRS. GEORGE W. JEFFERSON, sworn for the State.

I work at the National Pencil Company. We saw blood on the second floor in front of the girls' dressing room on Monday. It was about as big as a fan, and something white was over it. I didn't see that blood there Friday. Yes, there are cords in the polishing room, used to tie pencils with. They are hung up on a post in the polishing room. The spots were dark red in color. These cords are taken off the pencils and we throw them on a nail. We don't untie the knots. This loop right here is in all of the cords. I work in the polishing room, polishing lead pencils. I have been working there five years. We use paint in there, maroon red, red line and bright red. Of course you can tell the bright red from maroon red and the red line from maroon red. That spot that I saw was not one of these three paints.

CROSS EXAMINATION.

Mr. Barrett and I discovered that spot there together. Yes, that is a dirty, greasy floor. You can see grease, but you don't see anything red on the floor—not in the metal room. You do in the polishing room. The paints don't come from the metal room. They are kept back in the other room. We carry the paint back in bottles. Of course if a bottle would break the paint would get all over the floor. The white stuff there didn't hide the red at all. You could see it plainly.

RE-DIRECT EXAMINATION.

The pencils are painted on the third floor. There isn't any paint used at all in the factory only in the polishing room, except on the third floor.

B. B. HASLETT, sworn for the State.

I went to Mr. Frank's house Monday morning after the murder, about 7 o'clock. I went out there and got him and took him to the station house. He was at the station house two or three hours. I told him Chief Lanford wanted to see him.

CROSS EXAMINATION.

I saw Mr. Rosser and Mr. Haas at the station house about 8:30 or 9 o'clock. Mr. Black and I both went out for Mr. Frank Monday morning. We took him to the station house and turned him over to Chief Lanford. They had Mr. Frank in there and a half dozen detectives, and Mr. Haas and you were there. When we went out to Mr. Frank's house he went with us. As to whether he had to go or not, I suppose if he had resisted we would have taken him. It was not a question as to whether he wanted to go or not, but he didn't know he had to go. As to why two of us went out after him—two of us generally go together after anybody, because if he don't go voluntarily, he would go anyhow,—we would take him.

E. F. HOLLOWAY, sworn for the State.

I am day watchman at the National Pencil factory—worked there two years. I was there on April 26th, from 6:30 a. m. till 11:45. I look after the elevator and freight that come in and out and people that come in and out. As to what I did to the elevator on that Saturday, I didn't do anything except that when Mr. White and Mr. Denham were working on the top floor, I started the elevator up and ripped up a plank for them. The elevator was locked when I sawed that plank for them, but when I left it was unlocked. I locked it Friday night when I left there. But I went off from there Saturday and forgot to lock it. When I made that affidavit for you on May 12th, 1913, I forgot to tell you that I did some sawing for Mr. White and Mr. Denham. The elevator was standing on the office floor when I left there Saturday. I left it standing right there. I had done some sawing for Mr. White and Mr. Denham just before I left and in talking to them I went off and forgot to lock it. In affidavit signed May 12th, 1913, in presence of Starnes, Campbell and others, in answer to question, "Is the power box left locked or unlocked?" I will say I locked it Friday when I left there. I don't remember saying in this affidavit that if the elevator box was kept unlocked on account of insurance companies requiring it that I never heard of it, that they always told me to lock it. I don't remember any questions being asked me about any keys. I read and signed my name to that paper before I signed it. I don't remember stating

that I locked it Saturday. I did say in that affidavit it is kept locked all the time. The reason I said at the coroner's inquest that the elevator box was always locked and that I left it locked on Saturday was because I forgot to tell about that sawing. I did that sawing just before I left there Saturday. Friday evening I never heard Mr. Frank say anything to Newt Lee. When I left the factory at 11:45 on Saturday Mr. Frank said to me "You can go ahead if you want to; we will all go at noon." At about 9:30 Mr. Frank and Mr. Darley went over to Montag Bros. I have seen Gantt talking to Mary Phagan frequently. The stairs leading from the first floor into the basement are in good condition. They haven't been used this year. They have been nailed up all the year. The area on first floor around trap-door down there was cleaned up about two weeks after the insurance people came over and went through the building.

CROSS EXAMINATION.

Mr. Denham and Mr. White were working there Saturday, up on the fourth floor. They were up there when I left the building. Anybody could have walked from the fourth floor to the second floor all day long; there was no obstruction. A man at the stairway on the third floor can see the second floor in front of the clock. The front doors were unlocked all the morning and they were still unlocked when I left. When Mr. Denham and Mr. White asked me to saw some timber for them that morning, I went and got the key and unlocked the motor that runs the elevator. I left it unlocked after that. Anybody could have started the elevator running then by throwing in the switch. I am familiar with the floor back there in the metal department. It is a very dirty, greasy, stained up floor—there isn't a worse one in town. Whenever you walk along there you will fall down if you are not very particular. The floor has never been washed the three years that I have been there. You see the analines and white stuff scattered all over the floor every day and the sweepers just sweep it along together. You see spots on the floor quite frequently. We work about 100 girls in the factory. Four or five of them work in the metal room. There is a lady's dressing room right there where they chipped up the spots, and right across from there is the toilet, not over six feet from it. I have seen blood spots frequently ever since I have been working there around the ladies toilets and the ladies dressing rooms; the foreladies would always tell me about it and I have often noticed it when we were working or sweeping or anything of the kind, and I would know what it meant. I would go back and have it cleaned. These spots that Barrett claims to have found I don't recall having noticed before; they would not have attracted my attention. They were right on the way to the ladies dressing room. Yes, this man Barrett discovered mighty near everything that was discovered in the building—hair, blood, and pay envelope. That is what he says. No, I have never seen Mr. Frank speak to Mary Phagan. I was at the factory at 6:30 Saturday morning. I was the first man that got there. Denham and White came in about 7 o'clock and went up on the fourth floor. They were doing some work

up there. I had to saw that plank for them. They told me that it would take them until about 3 o'clock. The office boy, Alonzo Mann, 13 or 14 years old, came in next. Mr. Frank came in about 8:30 or 8:45. He went right in his office, unlocked his safe and got out his books and went to work on them. Mr. Darley was the next one that came in and Miss Mattie Smith the next. She stayed about 10 minutes and went out again. I met Miss Corinthia Hall and Miss Emma Clark at the corner of Hunter and Broad coming toward the factory just as I was leaving. Miss Clark asked me if anybody was there—said she wanted her wrap, it was turning cold, and I said, "Yes, Mr. Frank will let you have it." There were several others came in that morning, but they came in while I was up stairs with Mr. White and Mr. Denham. There was no lock at all on the metal room door. Newt Lee closed up the building Friday. He looks after all the doors and windows plumb back to the back door in the basement. There were 7 or 8 negroes about the building, elevator boys and sweepers. On Saturday they paid off at 12 o'clock, right at the clock. Mr. Frank would always be in his office attending to his books when they paid off. We put up a sign saying that the paying off would be done Friday night instead of Saturday, because Saturday was a holiday. We put four signs on every floor. Elevator shaft is closed by sliding doors. Anybody can raise them, they are not locked. It is very dark around the elevator shafe on the first floor, filled with boxes all around there. We have two clocks. One runs to 100 and the other runs from 100 to 200. Each employe has a number. That is the reason we have two clocks. When Miss Mattie Smith came in she discovered a mistake about her time by the time she reached the clock. Mr. Frank and Mr. Darley corrected it in the office and then she left. Mr. Frank got back from Montag's about 11 o'clock. He had with him the folder in which he carries his papers. Nobody was with him when he came back. He went right up into his office. The stenographer was in the outer office when he got there. These cords here are found laying around everywhere in the building. They come on every bundle of slats that come into the building. The pencils are tied up with those slats at the top floor, brought down by elevator, carried in the packing room and those strings are then put on them. They get in the trash every day and into the basement. It is impossible to keep them out. I did not see Mary Phagan or Monteen Stover. The negro Conley was familiar with the whole building, every part of it.

RE-DIRECT EXAMINATION.

White and Denham were working on the fourth floor about thirty feet from the elevator. On May 12, 1913, I told you that the elevator was locked because I forgot to tell you I done some sawing. I took the key out, left the elevator unlocked and took the key back and put it in the office. Mr. Darley got to the factory about 9 o'clock Saturday. Miss Mattie Smith got there about 9:10.

RE-CROSS EXAMINATION.

When I gave Mr. Dorsey that affidavit about locking the elevator I was telling more about my habit, the way I usually did it. I forgot to tell him about sawing those planks that Saturday morning and the fact that I sawed those planks makes me know that I left the elevator unlocked. The elevator makes a good deal of noise when it starts and when it stops.

RE-DIRECT EXAMINATION.

I was on the second floor when all of these people came in the factory. Mr. Frank worked on his books until he got ready to go to Montags, I think it was about an hour. I checked freight with a one-legged drayman about 10:30; his wagon was right in front of the door.

N. V. DARLEY, sworn for the State.

My name is N. V. Darley. I am manager of the Georgia Cedar Company, a branch of the National Pencil Company. I have charge of the manufacturing and labor in the Forsyth Street plant. Mr. Sig Montag is my superior. Mr. Frank and I are of equal dignity in the factory. I was at the National Company's factory on Saturday, April 26th. I saw Mr. Frank and left about 9:40 in the morning. I was there Sunday morning at about 8:20. I saw Mr. Frank that morning. Observed nothing unusual when I first saw him. When we started to the basement I noticed his hands were trembling. I observed that he seemed still nervous when he went to nail up the back door. When we started down to nail up the back door he made some remark about having on new clothes or some more clothes and he pulled his coat off to keep it from getting soiled. When we left the station house and started towards Bloomfields he told me why he was nervous. He said that he had not had breakfast and didn't get any coffee and that they had rushed him by Bloomfields, carried him in a dark room and turned the light on and he saw the girl instantly and that was why he was nervous. The elevator was unlocked. I don't know where the key was. Newt Lee seemed to be thoroughly composed. Mr. Frank stated to me in the basement that he thought that the murder was committed in the basement. Mr. Frank stated that it looked easy for the staple to be pulled out and I agreed with him, because the staple looked black and it looked to me as if it had been pulled out before. On Monday Mr. Frank explained again about why he was nervous on Sunday morning. I heard him speak of the murder numerous times. When we started down the elevator Mr. Frank was nervous, shaking all over. I can't say positively as to whether his whole body was shaking or not, but he was shaking. Newt Lee seemed to be composed when I saw him at the factory. Mr. Frank could have driven the nails in the back door, but I thought I could do it with more ease. Mr. Frank looked pale Sunday morning. I think he seemed upset, but he did some things around the factory there that a man who was completely upset could not have

done, I don't think. When riding down to the police station from the pencil factory Mr. Frank was on my knee, he was trembling. I saw the financial sheet on Mr. Frank's desk. Mr. Frank picked it up in his hand. Gantt was at the factory three or four times after he was discharged. My recollection is that Frank said something about the financial sheet on Sunday. It was on May 3rd that Mr. Haas, the insurance man, asked that the factory be cleaned upon the Malsby side and on the other side. When my attention was called to it I noticed something that looked like blood with something white over it at the ladies dressing room on Monday morning.

CROSS EXAMINATION.

Mr. Quinn called my attention to the blood spots, Barrett called Quinn's attention to it. Barrett showed me some hair on a lever of the lathe. It was 20 or 30 feet from Mary Phagan's machine on the north side of the room. There were no blood spots on it. I don't think anybody could answer how many strands of hair Barrett found. They were wound around the lever. I don't think there were over 6 or 8 at the outside. It was pretty hard to tell the color. It is my understanding that Barrett has been doing most of the discovering done in the building. He has lost quite some time since the murder, and buys quite some extras and reads them. The white stuff practically hid the spots. It looked like there had been an attempt to hide them, but you could see the spots. It looked like the man who tried to hide them, if anybody did, made a smearing motion and left the spots showing. I saw no blood spots on Mary Phagan's machine. There are hundreds of pay envelopes distributed every week in the factory. The rule is that if a person goes outside of the factory and finds an envelope short we do not correct it. As the pay envelopes are distributed they take them and tear them off, just like this one. The employees take the money out and scatter the envelopes all over the factory. On the second floor where the metal room is is the main place where you find the pay envelopes. I was present on Sunday morning when the time slip was taken out. I was looking over Mr. Frank's shoulder. Mr. Frank run it down the number side. This time slip (Defendant's Exhibit "I") looks like the one. Mr. Frank looked down the number side and said it was all right and I verified it. I didn't notice between 9:32 and 10:29 if there was any punch, or between 11:04 and 12, or between 2:03 and 3:01. I identify this (Exhibit "1" defendant) by the numbers 6:01 and 6:32. I look over the financial sheets every Saturday afternoon. The factory week runs from Friday morning till Thursday night. The financial sheet is usually completed about 5:30 Saturday afternoon. The financial sheet shows the week's operation of the factory; the production of the factory, the different kinds of pencils that were produced. There are perhaps 75 or 80 different kinds, besides the special imprint pencils. Mr. Frank had to get all the data from the various departments of the factory, particularly the packing room. The cost of production was estimated most of the time as to the merchandise. The other things were real figures. Merchandise is bought by the month and

he had to figure it up at the end of the month to get the average. To arrive at the profit that was made during the week he took the actual value of the pencil and the amount of expenses that was paid out for material, labor, etc. He had to get all the data, all the reports and make all those calculations. It usually took him from about half past two or three o'clock on Saturday until five-thirty, and some times later. This financial sheet (Defendant's Exhibit "2") is in Frank's handwriting and is the one I saw on his desk Sunday morning. I left the factory at 9:40 and he hadn't started the financial sheet then. He usually started the financial sheet from 2:30 to 3 o'clock. I am familiar with Frank's handwriting. All of this financial sheet is in his handwriting. To get the figure 2765½, net 2719½, under material cost, he had to look at how many labels had been used, how many boxes, whether they were carton or plain ones, partition, rubbers, amount of lead used and amount of slate used. He got the reports that gave him that data from the different departments of the factory. To arrive at that result is quite a calculation. It is my opinion that it took a skillful, clear-headed man to calculate that. Yes, I am familiar with the elements that enter into that calculation. To arrive at the net results of the figures just named, you have to get the amount of rubbers, tips, lead, wrappers, labels, boxes, whether carton or plain boxes, partition, whether it is cheap or good lead. The 2765½ means 2765½ gross. Further on down you find the different items that make up that figure under the head of wrappers, leads, tips, etc. The next figure is under rubber, 720 gross at 6½c. Those figures come from the plugging department or he can get them from the goods as they are delivered to the packing room, by knowing the styles and numbers, you can tell whether it is a tipped or untipped pencil. You get that from the shipping room and the other from the metal room. He arrives at the figures on the reports turned in. It requires a good deal of calculation, mostly multiplying. The next figure is under tips, 1374 gross at ten cents. He gets that from the packing room. The ten cents means what the tips cost to produce. That's a stipulated price. The next heading is lead, 747 gross at 15c. and 1955 gross at ten cents. He has to go through these reports the same way except he doesn't have to work the cost of that, it's taken care of in the account. He has to arrive at the number of gross, but the cost is fixed. The next item is supplied at 5c. per gross, boxes 3771 at 2c., assortment boxes 279 at 10c., wrappers 2535 at 1c. He gets those reports from the boxes of the pencils in the packing room. He gets the reports as to the rubbers and the labels from the packing room. The cost per gross is fixed, but he has to figure out the quantity. The next item is assortment boxes, wrappers, skeletons. The next item, cartons. The next item is pay roll, Bell Street. The next, slats from the slat mills. As the slats are delivered from the slat mill, a report comes with it, and those reports are taken at the end of the week and added up. There are about five of those shipments during the week. He has to take the data that accompanys each shipment and adds all that up at the end of the week. The next item is "pencils packed," (top of sheet). There are 24 itemized here, and the word

"jobs" implies I don't know how many different kind of jobs. There are 24 different kind of pencils. He puts them there as having been produced that week. He got the reports as to the quantity of each kind of pencil and had to tabulate all those reports and arrive at the total of each kind. No, I don't think he had to figure out the cost of production of each kind, but he figures the quantity of each kind of pencil and shows its value on the sheet. Starnes and Black and Anderson and Dobbs were there on Sunday morning. We went all over the factory. I don't remember about hearing of any blood being found on Sunday at all. There was a great deal of excitement there that morning. We see spots all over the factory floor. We have varnish spots, and people get their fingers cut, we have every color spots you can think of. I have been working in factories for 24 years. It is a frequent occurrence in establishments where a large number of ladies work that you will see blood spots around dressing rooms. I have seen them a good many times. I have seen it at this factory. Mr. Frank had on a brown suit on Saturday and Monday. On Sunday he had a different suit on. I never noticed any scratches, marks or bruises on Mr. Frank on Sunday. There was a little girl in Mr. Frank's office on Saturday morning, by the name of Miss Mattie Smith, and her sister-in-law's time was wrong and Mr. Frank told her to wait a few minutes and he would straighten it out for her. She had been paid $3.10 too much, and she gave me back the money when she found it was wrong and I gave it to Mr. Frank and he said he was glad because it balanced his cash. She then started out of the factory and got to the stairway and she came back again and said that her time was wrong the other way, and I said "Little girl will it do all right to straighten it Monday," and she said "Yes." I then asked her how was her father, and she said, "My father is dying, I think." Then she spoke to me about getting some assistance from the office for burial expenses, and she commenced to cry and I walked down the steps with her to the front door. That was about 9:20. Mr. Frank stayed at the factory until 9:40, when we left together. We went on up to the corner of Hunter and Forsyth, took a drink of sodawater at Cruickshank's at the corner of Forsyth and Hunter. He left me then and started towards Montag's. That's the last I saw of him until Sunday morning. The elevator box was unlocked Sunday morning, and anybody could have pulled it open and started the elevator. The elevator makes some noise. It is driven by a motor. It makes more noise when it stops at the bottom than when it starts. There is nothing to stop it except when it hits the bottom. I have seen these cords that we tie up slats and pencils with in every part of the factory. I have raised sand about finding them in the basement; they go down in the garbage. There are several truck loads of waste and debris every day. The general cleaning up of the premises was had on Tuesday after the murder. The factory is five stories high, between 150 and 200 feet in length and 75 or 80 feet wide. It is an extremely dirty place. In some places the floor is gummed an inch thick, and in some parts of the metal room it is one-eighth of an inch thick, it might not average that all over. It is always dark on the first floor, through the hall toward the elevator.

On a cloudy day it is very dark. We keep a light burning there most of the time. I couldn't say whether we had cleaned up all the trash and rubbish around the factory, because there are corners and crevices which we don't usually get to. Saturday, April 26, was a dark, bad, misty day, until about 9:30. It was cloudy most of the day. It was dark there around the elevator on the first floor and we had big heavy boxes piled up there. One of them must have been almost as large as a piano box. If a man got between those boxes, we would have had to hunt to find him. It is very dark on the second floor between the clock and the metal room. It is dark behind the ladies dressing room and on the side next to the ladies toilet. As you go to the stairs from the metal room, it is very dark. A person sitting at Mr. Frank's desk in his office could not see anyone coming up those stairs. It would be impossible to see anyone coming up those steps from anywhere in Mr. Frank's inner office, you would have to go outside of it. There is no lock on the metal room doors. In the metal room there are a great many vats and a great many boxes and things containing stock and goods just south of the ladies dressing room. It is piled up very bad back there. Averaged anywhere from 2 to 6 or 8 feet in height. It isn't used at all except for storage. The metal room contains three or four large vats that have got lids on them. They are shallow, but they are large inside. They are about a foot and a half deep. Nobody is supposed to be in any part of the building on Sunday, that is the only time we don't have a watchman. The factory is supposed to be locked entirely. The elevator steel cables have some slack in them. It isn't like a stiff iron in them. It would shake when you catch hold of it. There are two cables, you pull the right one to come down and the left one to go up. You can catch it and shake it in your hand. Yes, Mr. Frank is a small, thin man, about 125 or 130 pounds. Yes, Mr. Dorsey served a subpoena on me to come down to his office. I didn't know that he did not have any right to subpoena me. Yes, I thought I was being subpoenaed to come into court. They served two subpoenaes on me and sent for me one time. The first time I went there, Chief Lanford, Mr. Dorsey, Mr. Stephens and the stenographer was there. They all asked me questions. One would ask me a question and before I got that answered, another would ask me a question. The next time I went there, Mr. Dorsey, Mr. Starnes, Mr. Campbell and the stenographer were there. Mr. Dorsey did all the questioning this time. When Mr. Frank was engaged on his work in the factory he was very intent on his work, very earnest and industrious. I don't think a day passed at the factory that Mr. Frank did not get nervous. When anything went wrong he would wring his hands and I have seen him push his hands through his hair. When things went wrong it would upset him. If anything out of the ordinary happened I have seen him a thousand times, I suppose, rub his hands. At a factory like this things don't usually go right all day, there is something wrong all the time. When anything went wrong it rattled him and he would frequently call on me to straighten it out. He would show the most nervousness when he would go over to Montag's with the mail, and he would raise sand about something and he would come back very nervous. If

Mr. Frank saw anything going wrong inside the factory, he would refer the matter to me. I never saw Mr. Frank speak to Mary Phagan. I don't know whether he knew her or not. I didn't know we had a girl by that name in the factory until I found it out afterwards. The two men working up in the fourth floor all day Saturday could have come to the second floor into the metal room and down into the basement if they wanted to, they had the whole run of the factory. Yes, I have seen all kinds of papers down in the basement. The paper that note is written on is a blank order pad. It is either the carbon or white sheet, one is white and one is yellow. That kind of paper is liable to be found all over the building for this reason, they write an order, and some times fail to get the carbon under it, and other times they have to change the order and tear it out and throw it in the waste basket in the office and from there it gets into the trash. That kind of little pad is used all over the factory. The foreladies make their memorandum on that kind of tablet. You will find them all around. It is one of the biggest wastes around the place. They are all over the building, and any man that worked around the factory or ran the elevator or swept up the different floors would be more likely to come across them than any one else, because they are thrown on the floor. There was an order to keep the clock door locked, but on this occasion the key was lost and the clock door was open. When I got there Sunday morning the clock door was unlocked. Mr. Frank could not have unlocked it because the key was lost. With the clock door unlocked, any one who understands the clock, could have punched for all night in five or ten minutes. I made the same mistake Mr. Frank made in thinking that all the punches had been made all right. I looked over the factory at noon to-day and compared it with some points on this picture (Exhibit "A" for State). This big space in the cellar appears to be short. Those steps in the cellar are much longer in reality. The platform itself is about 15 feet long, and the incline is 17 feet, making 32 feet the length of it. The distance between the walls of Mr. Frank's office and the elevator shaft is 5 feet to 5½ inches. The elevator shaft is ten feet, but on the picture the space between the elevator shaft and Mr. Frank's office looks almost as wide as the elevator shaft itself. One is ten feet and the other is 5½. As to what occasions I recall seeing Mr. Frank nervous, I recall once that he came in one afternoon on a street car when it ran over a little child. He came in about 2:30 and he couldn't work any more on his books until a quarter after four. He trembled just as much on that occasion as he did on the Sunday after Mary Phagan was killed. Another time I remember when I went over to the main factory and he and Mr. Montag had a fuss on the fourth floor. Mr. Montag hollered at him considerably and he was very nervous the rest of the evening, he shook and trembled. He says "Mr. Darley I just can't work," and some of the boys told me he took some spirits of ammonia for his nerves. Everybody was excited in the factory that morning after Mary Phagan was killed. Starnes and Black and Rogers were there and it seems like they were all excited. Looked like everybody was worried. As to another mistake in the picture (State's Exhibit A), the bottom of the

ladder in the basement is much closer to the elevator than what is shown on the picture. It is about 6 feet. On the picture it looks to be about 10 feet and the toilet in the basement is closer to the wall than the picture shows, it is right up against the wall. The picture doesn't show the Clarke Woodenware partition back of the elevator. The door to the Clarke Woodenware Company also is closer to the elevator than the picture shows. On the stairs from the first to the second floor there are double doors instead of single doors as shown on the picture. The picture shows up Frank's inner office a good deal larger than the other office. As a matter of fact the outer office is larger. The outer office is 12 feet 4 inches wide. The inner office ten feet 3. The picture shows a great big wide place for a door between the inside office and the outside office, making it look like a double door. That is a representation to show a full view from Frank's desk into the hall, as a matter of fact it is a single door, standard size. It looks like it was drawn to open up a space to give as much view as possible out into the hall. The safe is shown to be about half its real size on this picture. On the picture it is shown to be about one-third the width of the door, as a matter of fact it is about the same size. When the safe door is open, it shuts off three-fourths of the view from Frank's office out into the hall, unless you stand up high enough to look over it. The picture also shows the south wall of the outer office on a line with the clock. The picture doesn't show up the wardrobe in the inner office, nor the two cabinets that are in there. I don't think it is a very accurate picture. It opens up Frank's inner office a whole lot better than it really opens up. Sitting at Frank's desk and looking out through the door towards the clock, in reality you have a looking space of only 25 inches. You can just see about four numbers on clock number 2. You could not see anywhere near the stair case, or in the neighborhood of it.

RE-DIRECT EXAMINATION.

I felt nervous from the time they told me the girl was dead, until I left the building. I was not trembling, I was simply excited and worried. Well, Starnes was nervous. He looked as if he were worried. He seemed nervous both in talk and manner. I can say the same thing of the rest of the officers who were there. Mr. Frank was more nervous than the others. The men were all about as nervous on Monday and Tuesday. Everybody seemed to be in a turmoil and shaking. Mr. Holloway and Mr. Schiff were shaking. I noticed Mr. Schiff's hands shaking Monday morning. Mr. Holloway was about in the same shape. Mr. Frank was very nervous Tuesday after the extra came out saying that they were going to arrest him. That was about 15 or 20 minutes before they arrested him. As to who gets up the data for Mr. Frank for the financial sheets, Mr. Loeb some times, and Mr. Gantt used to get up some, and Mr. Schiff gets it up some times. Mr. Frank got it up himself, some times. No, I do not know that Mr. Schiff furnished it to him all the time. I never noticed whether Lee was nervous or not at any time, but of course, he looked bothered and worried. Mr. Frank told me that the slip he took out

of the clock Sunday morning had been punched regularly. I made the same mistake standing right there by his side. I didn't see Mr. Frank date the slip. It ought to have been dated the 26th. The slip I saw didn't have any time on it except the watchman's time. I don't know whether I would know it or not, to identify. The slips are not made in duplicate. As to whether there is any mark on the slip to enable any one to identify it, as the one taken out that night, my memory is that it was started at 6:01 or 6:32. Of course nobody could tell who punched the clock, one man's punch is just like another. That diagram or picture (State's Exhibit A) is a fair representation of the building as a whole, it is not a fair representation of the interior. I never knew there were any stairs in the basement until this matter came up. They are never used to my knowledge. There is a way of closing the door in rear of second floor from upstairs. The regular place of keeping these order blank books is in the outer office. There is no regular place in the basement to keep paper, but it is thrown out in the waste basket and gets down in the trash. There is no use for that paper anywhere but in the office, but that doesn't prevent it from being scattered around. I have scratch pads of that shape scattered around even in the basement. That scratch pad is used all over the factory, everywhere there is a foreman or a forelady. No, not in the area around the elevator there. The trash is carried downstairs right in front of the boiler. Sometimes if they are in a hurry they leave it around the elevator for a little while, and when I go down I make the negro move it to the boiler. It is usually burned. Some of it may stay there for a week, some of it burned right away.

RE-CROSS EXAMINATION BY DEFENDANT.

As to people being nervous, Montag and Frank merely had some words when Frank became so nervous, Schiff was trembling Monday, Holloway also, I noticed Miss Flowers began to cry and scream and I had to go in there and get hold of her myself. That was Tuesday morning. The whole factory was wrought up. I couldn't hardly keep anybody at work. I had to let them go on Monday, and I wished I had let them go for the rest of the week, for I couldn't get any work out of them. I wouldn't say that I couldn't get any work out of Christopher Columbus Barrett, since, but he has lost a good deal of time. I would have to look to the pay roll to tell.

W. F. ANDERSON, sworn for the State.

I was at police headquarters Saturday, April 26. I got a call from the night watchman at the pencil factory. He said a woman was dead at the factory. I asked him if it was a white woman or a negro woman. He said it was a white woman. We went there in an automobile, shook the door and Newt Lee came down from the second floor and carried us back to the ladder that goes down through the scuttle hole. About 3:30 I called up Mr. Frank on the telephone and got no answer. I heard the telephone rattling and buzzing.

I continued to call for about five minutes. I told Central that there had been a girl killed in the factory and I wanted to get Mr. Frank. I called Mr. Haas and Mr. Montag, too. I got a response from both, I think a lady answered the telephone. I got them in a few minutes. I tried to get Mr. Frank again about four o'clock. Central said she rang and she couldn't get him. There was some blood on the girl's underclothes.

CROSS EXAMINATION.

There was a wound on the left-hand side of the girl's head. The blood was dried up. It was wet right next to the skin. Lee said over the telephone that it was a white girl. It took us about three minutes to get to the factory from the police station, just as quick as the automobile could get us there. We got there inside of five minutes after I received his telephone message. Lee had a smoky lantern. You couldn't see very far with it. It was smoked up right smart. Lee said he had been to the closet and had his lantern sitting down there and he looked over and saw the lady. He said he saw her while he was standing up. I said he couldn't see her. You could see the bulk of anything that far, but you couldn't tell that far whether it was a person. He told me when I first got him that he had his lantern sitting down right in front of him. The body was lying sort of catecornered and on the left side of the body I saw a number of tracks which lead from the body to the shaving room. There is an opening from the place where the body lay into the shaving room. I found a pencil down there. There are plenty of pencils and trash in the basement. The trash was all up next to the boiler.

H. L. PARRY, sworn in behalf of the State.

I reported the statement of Leo M. Frank before the coroner's jury. I have been a stenographer for thirty years and considered an expert.

CROSS EXAMINATION.

Newt Lee was asked the following questions and gave the following answers at the coroner's jury: "Q. Had you ever seen him change that before? A. Well, he put the tape in once before. Q. When was that? A. I don't know, sir, when it was, it was one night. Q. How long did it take him the first time you ever saw him put the tape on? A. I never paid any attention to him. Q. Well, about how long did it take him, five minutes? A. No, sir, it didn't take him that long. Q. Did it take him a minute? A. I couldn't tell exactly how long. Q. How long did it take the other night, on Saturday night? A. Well, it took him a pretty good little bit, because he spoke about it. He said it's pretty hard, you know, to get on." I don't know whether he swore anything else on that particular subject without examining the record.

G. C. FEBRUARY, sworn for the State.

I was present at Chief Lanford's office when Leo M. Frank and L. Z. Rosser were there. I took down Mr. Frank's statement stenographically. I don't remember Frank's answers in detail, Mr. Rosser was looking out of the window most of the time. He didn't say anything while I was in there. This (Exhibit B, State), report is correct report of what Mr. Frank said. It was made on Monday, April 28th.

CROSS EXAMINATION.

I believe Mr. Rosser and Mr. Frank were in the room when I came in. It was sometime in the forenoon. I have never been a court stenographer except in Recorder's court. I am Chief Lanford's private secretary. Mr. Black was in there during the latter part of Mr. Frank's statement. Chief Lanford asked Mr. Frank if he changed clothes. He showed part of his shirt and opened his trousers. He showed his clothing to Chief Lanford at the end of the statement. I wrote the statement out in longhand the same day. I don't remember exactly when.

ALBERT McKNIGHT, sworn for the State.

My wife is Minola McKnight. She cooks for Mrs. Selig. Between 1 and 2 o'clock on Memorial Day I was at the home of Mr. Frank to see my wife. He came in close to 1:30. He did not eat any dinner. He came in, went to the sideboard of the dining room, stayed there a few minutes and then he goes out and catches a car. Stayed there about 5 or ten minutes.

CROSS EXAMINATION.

Mrs. Selig and Mrs. Frank were present when Mr. Frank came in. I was in the cook room. There is a swinging door between the dining room and the cook room. The dining room door was open. The door swings back and forth, but they don't keep it shut. You can see from the kitchen into the dining room. You can look in the mirror in the corner and see all over the dining room. I looked in the mirror in the corner and saw him. You can look in that mirror and see in the sitting room and in the dining room. I have no idea how big the kitchen or dining room is. I was never in the dining room in my life. I was sitting at the back door in the kitchen, at the right side of the back door, up against the wall. Minola went into the dining room, and stayed a minute or two, no more than two minutes. She came back into the kitchen. I don't know whether the other folks ate dinner or not, I did not see Mr. Selig. I came to the house from my house in the rear of 318 Pulliam Street. After coming to the sideboard Mr. Frank went into the sitting room where Mr. Selig was. I didn't see Mr. Selig, but heard him talking. I told about Mr. Frank not eating after I came back from Birmingham, I told it to Mr. Craven of the Beck & Gregg Company. It was before Minola went down to the jail.

Mr. Starnes, Mr. Campbell, Mr. Morse, Mr. Martin and Mr. Dorsey all talked to me. I didn't go down to see Minola at the station house. I didn't see Mrs. Frank or Mrs. Selig that Saturday through the mirror. I didn't keep my eye on the mirror all the time. I couldn't tell who was in the dining room without looking in the mirror. Mr. Frank got there not later than 1:30. Mr. Frank came on back to Pulliam Street and caught the Georgia Avenue car at the corner of Georgia Avenue, and Pulliam Street. I am certain that he caught the Georgia Avenue car at Pulliam Street and Georgia Avenue.

RE-DIRECT EXAMINATION.

The Selig residence is on East Georgia Avenue between Pulliam and Washington Streets. I don't know exactly the nearest place for Mr. Frank to have gotten on the car, Washington Street or Pulliam Street. I suppose Pulliam Street is nearer to town than Washington. I certainly saw Mr. Frank that day, from the kitchen where I was sitting.

MISS HELEN FERGUSON, sworn for the State.

My name is Helen Ferguson, I worked at the National Pencil Company on Friday the 25th. I saw Mr. Frank Friday, April 25, about 7 o'clock in the evening and asked for Mary Phagan's money. Mr. Frank said "I can't let you have it," and before he said anything else I turned around and walked out. I had gotten Mary's money before, but I didn't get it from Mr. Frank.

CROSS EXAMINATION.

When I got Mary's money before I went up there and called my number and called her number, and I got mine and hers. I didn't ask the man that was paying off this time to let me have it. I don't remember whether Mr. Schiff was in the office or not when I asked Mr. Frank for Mary's money. Some of the office force were there, but I can't recall their name. I worked in the metal department about two years. I never saw little Mary Phagan in Mr. Frank's office. I don't think Mr. Frank knew my name, he knew my face. It has been some time since I asked for Mary's pay by number. I do not believe that I ever saw Mr. Frank speak to Mary Phagan.

RE-DIRECT EXAMINATION.

I don't know who paid off on Friday, April 25th.

R. L. WAGGONER, sworn for the State.

I am a city detective. On Tuesday, April 29th, from ten thirty until a little after 11 in the morning I was in front of the pencil factory on the other side of the street. I would continually see Mr. Frank walk to the window and look down and twist his hands when he would come to the window looking down on the sidewalk. He did this about 12 times when I was there in about

30 minutes. I was in the automobile with Mr. Frank and Mr. Black and his leg was shaking. He was under arrest at the time.

CROSS EXAMINATION.

I don't know what he was doing in the office. I saw some other people up there that I didn't recognize. I was sent to the pencil factory to notice Mr. Frank and the pencil factory. I thought Mr. Frank would be arrested.

J. L. BEAVERS, sworn for the State.

I am Chief of police of the City of Atlanta. I was at the pencil factory on Tuesday, April 29th, and saw what I took to be a splotch of blood on the floor right near this little dressing room on office floor, seemed to be as big as a quarter in the center and scattered out in the direction of this room near the door. There was one spot and some others scattered around that.

CROSS EXAMINATION.

It may have been Monday that I was at the pencil factory. I don't know whether it was blood or not. It looked like blood.

R. M. LASSITER, Sworn for the State.

I am a city policeman. On Sunday morning, April 27th, I found a parasol in the bottom of the elevator shaft. It was lying about the center of the shaft. I also found a ball of rope twine, small wrapping twine, and also something that looked like a person's stool.

CROSS EXAMINATION.

I noticed evidence of dragging from the elevator in the basement. As I passed the rear door at 12 o'clock, the door was closed. The umbrella was not crushed. I found it between 6 and 7 o'clock in the morning. The elevator comes down there and hits the ground plump at the bottom of the basement.

RE-DIRECT EXAMINATION.

I don't know whether the elevator shaft has a cement bottom or not. There is a whole lot of trash at the bottom.

L. O. GRICE, Sworn for the State.

My name is L. O. Grice. I was at the National Pencil company's place on Sunday morning, April 27th. A small sized man, defendant here, attracted my attention, on account of his nervousness.

CROSS EXAMINATION.

I was called as a witness in this case one week after it started. I told some of my friends about Mr. Frank's nervousness and they advised me to go to Dorsey. I never knew or saw Mr. Frank before. When we were told of how the little child was murdered, it excited me some.

RE-DIRECT EXAMINATION.

I don't recall trembling any. I am pretty sure I didn't because my friend that I went to Opelika with that morning suggested that I was trembling when I went through there, and I told him I was not. He was not there when I went through the factory and when I told him about it he said I bet you were scared. He walked around this way a little bit. He was kind of shaking like that (illustrating). His fingers were trembling.

MELL STANFORD, Sworn for the State (recalled).

The door in the rear part of the factory on the second floor on Friday evening was barred. There is no way in the rear of the building to come down to the second floor when the door is barred except the fire escape, and you have to be on office floor to undo the door. The area around the elevator shaft on the first floor near the hole and radiator was cleaned up after the murder. It was the early part of the week after the murder.

CROSS EXAMINATION.

I didn't clean it myself. I saw it cleaned. I passed by as it was being cleaned up.

W. H. GHEESLING, Sworn for the State.

I am a funeral director and embalmer. I moved the body of Mary Phagan at 10 minutes to four o'clock April 27, in the morning. The cord (Exhibit C, State) was around the neck. The knot was on the right side of the neck and was lying kind of looped around the head. It wasn't very tight at the time I moved it. There was an impress of an eighth of an inch on the neck. The rag (Exhibit D—State) was around her hair and over her face. The tongue an inch and a quarter out of her mouth sticking out. The body was rigid, looking like it had been dead for some time. My opinion is that she had been dead ten or fifteen hours, or probably longer. The blood was very much congested. The blood had settled in her face because she was lying on her face. Blood begins to settle at death or a very few minutes after death. After Dr. Hurt examined her nails, I did. I found some dirt and dust under the nails. I discovered some urine on her underclothes and there were some dry blood splotches there. The right leg of the drawers was split with a knife or torn right up the seam. Her right eye was very dark; looked like it was hit

before death because it was very much swollen; if it had been hit after death there wouldn't have been any swelling. I found a wound 2¼ inches on the back of the head. It was made before death because it bled a great deal. The hair was matted with blood and very dry. If it had been made after death, there would have been no blood there. There is no circulation after death. The skull wasn't crushed; the scalp was broken. The indication was that it was made before death. There was a scar over each eye about the size of a dime. I didn't notice any scratches on her nose. I can't state whether the defendant ever looked at the body or not. There was some discharge on her underclothes which was very dry and if she had been dead a short time, it would have been wet yet.

CROSS EXAMINATION.

I judge the length of time the corpse had been dead by the rigor mortis. This is very indefinite at times. It begins before death. If she died of strangulation, I would expect rigor mortis to begin within an hour. I have never had any experience about as a case of strangulation so as to determine when rigor mortis began and when it broke. There is no certainty about how long a corpse is dead. All the blood was dry when I examined the body. Mr. Rogers and Mr. Black came with Mr. Frank and asked me to take him back to where the girl was. I took them back there, pulled a light, pulled the sheet back, and moved the revolving table and walked out between them. Mr. Frank was near the right-hand going in. Mr. Black was at the left. I took a half gallon of blood from the little girl's body, enough to clear up the face and body. I injected one gallon of the formula into the corpse. Formaldehyde is a constituent part of the embalming fluid used. I prepared the little girl properly for burial. There was no mutilation at all on the body. I judge she died of strangulation because the rope was tight enough to choke her to death and her tongue being an inch and a quarter out of the mouth, showed she died from strangulation.

RE-DIRECT EXAMINATION.

I don't think the little girl lost much blood.

DR. CLAUDE SMITH, Sworn for the State.

I am physician and City Bacteriologist and Chemist. These chips (Exhibit E—State) appear to be the specimen which the detectives brought to my office and which I examined. They had considerable dirt on them and some coloring stain. On one of them I found some blood corpuscles. I do not know whether it was human blood. This shirt (Exhibit E for State) appears to be the same shirt brought to my office by detectives which I examined. I examined spots and it showed blood stain. I got no odor from the arm pits that it had been worn. The blood I noticed was smeared a little on the inside in places. It didn't extend out on the outside. The blood on shirt was somewhat

on the inside of the garment high up about the waist line which to my mind could not have been produced by turning up the tail.

CROSS EXAMINATION.

I found grit and stain on all of the chips. I couldn't tell the one that I found blood on. I did the work in the ordinary way. The whole surface of the chips was coated with dirt. I couldn't tell whether the blood stain was fresh or old. I have kept blood corpuscles in the laboratory for several years. I found probably three or four or five blood corpuscles in a field. I don't know how much blood was there. A drop or half drop would have caused it, or even less than that. Rigor mortis begins very soon after death. Sometimes starts quicker, but usually starts very soon. I could not say when rigor mortis would end.

DR. J. W. HURT, Sworn for the State.

I am County Physician. I saw the body of Mary Phagan on Sunday morning, the 27th of April. She had a scalp wound on the left side of her head about 2½ inches long, about 4 inches from the top to the left ear through the scalp to the skull. She had a black contused eye. A number of small minor scratches on the face. The tongue was protruding about a half an inch through the teeth. There was a wound on the left knee, about 2 inches below the knee. There were some superficial scratches on the left and right elbow. There was a cord around the neck and this cord was inbedded into the skin and in my opinion she died from strangulation. This cord (Exhibit "C" for State) looks like the cord that was around her neck. There was swelling on the neck. In my opinion the cord was put on before death. The wound on the back of the head seemed to have been made with a blunt-edged instrument and the blow from down upward. The scalp wound was made before death. It was calculated to produce unconsciousness. The black eye appeared to have been made by some soft instrument in that the skin was not broken. I think the scratches on the face were made after death. I examined the hymen. It was not intact. There was blood on the drawers. I discovered no violence to the parts. There was blood on the parts. I didn't know whether it was fresh blood or menstrual blood. The vagina was a little larger than the normal size of a girl of that age. It is my opinion that this enlargement of the vagina could have been produced by penetration immediately preceding death. She had a normal virgin uterus. She was not pregnant. I made no examination of the blood vessels of the uterus or womb.

CROSS EXAMINATION.

The body looked as if it had been dragged through dirt and cinders. It is my impression that she was dragged face forward. If she had fallen on the corner of the floor that was sharp edged, or the corner of an elevator

shaft with an edge, it might have produced the wound. I do not know of the kind of instrument that produced the wound. There was no contusion on the inside of the skull, but the skull wasn't fractured. Neither the brain nor the meningis were affected. There was a little contusion on the inner lining of the skull. There was no bleeding on the brain tissues. I don't know whether it would produce unconsciousness or not. I was never asked before to examine the inside of anybody's skull to determine the fact whether death or unconsciousness resulted from the wound. It is my impression that this lick did produce unconsciousness, but I won't swear it, I don't know. The hemorrhage which we discovered in the skull caused no pressure on the brain. That was no sign that unconsciousness resulted. Where a person is strangled to death the lungs ought to show congestion. I never examined this girl's lungs. When I saw the body on April 27th I gave it as my opinion that she had been dead from 16 to 20 hours at 9 o'clock Sunday morning. Rigor mortis was complete. It is a very variable thing. I couldn't tell whether the blood on her underclothes was menstrual blood or not. The hymen was not intact, and I was not able to say when this hymen was ruptured. I saw no indication of an injury to the hymen. The appearance of the blood on the parts was characteristic of a menstrual flow. There was no laceration on the vagina, and no mutilation on this girl's body except those wounds on the face, head and legs. The size of the vagina is no indication of anything except the anatomy and the natural build of the person. It is no indication of rape. I found no outward signs of rape. I have formed no opinion whether this little girl was raped or had ever had intercourse with anybody. There was no external marks of violence. I told Col. Rosser at the Coroner's inquest that this little girl had her monthly period on, but I got that from somebody else. I did not conclude that from my examination. The monthly period causes some inflammation and congestion in the blood vessels of the ovaries and uterus. The vagina itself might have some different appearance. I was present when Dr. Harris made the post mortem examination of this girl. Cabbage is digested better by some people than others. It depends on the individual very much. It is considered hard to digest. It depends largely on mastication. You can chew up so thoroughly that it would go down into the stomach almost a liquid, but it would not be digested until the stomach took up that chewed mass. It would take a much longer time to digest and assimilate unmasticated cabbage than if it had been thoroughly chewed. It takes about 3½ hours to digest cabbage properly masticated, and it would take longer if the cabbage had been taken into the stomach actually or practically whole. Digestion continues partially in unconsciousness. It is a guess to say whether the girl was conscious or not. I would not undertake to give an opinion how long she remained unconscious. I would not undertake to give an opinion and don't know of any way of telling ten days after death how long a distended condition of the vagina existed before death.

RE-DIRECT EXAMINATION.

I could not detect the hymen from a digital and occular examination. Ordinary normal menses would produce a dilation of the blood vessels in the womb. The blood, flowing over the hymen I think would produce a little inflammation at the hymen, but if the hymen was broken down, I don't know that menstruation would have any affect upon the hymen. If the menstruation was about off, then I would say that any undue excitement might produce the flow again, or increase the flow that was already there. The contents of this bottle didn't (Exhibit "G"—State), stay in the stomach very long.

RE-CROSS EXAMINATION.

I wouldn't undertake to say how long that cabbage (Exhibit "G"—State) had been in the child's stomach. A blow on the back of the head might blacken one or both eyes.

RE-DIRECT EXAMINATION.

I think excitement could produce flow from the uterus. I don't think it would cause any discoloration of the walls of the vagina except from the blood.

DR. H. F. HARRIS, Sworn for the State.

I am a practicing physician. I made an examination of the body of Mary Phagan on May 5th. On removing the skull I found there was no actual break of the skull, but a little hemmorhage under the skull, corresponding to the point where the blow had been delivered, which shows that the blow was hard enough to have made the person unconscious. This wound on the head was not sufficient to have caused death. I think beyond any question she came to her death from strangulation from this cord being wound around her neck. The bruise around the eye was caused by a soft instrument, because it didn't show the degree of contusion that would have been produced by a hard instrument. The outside cuticle of the skin wasn't broken. The injury to the eye and scalp were caused before death. I examined the contents of the stomach, finding 160 cubic centimeters of cabbage and biscuit, or wheaten bread. It had progressed very slightly towards digestion. It is impossible for one to say absolutely how long this cabbage had been in the stomach, but I feel confident that she was either killed or received the blow on the back of the head within a half hour after she finished her meal. I have some cabbage here from two normal persons. Here was same meal taken of cabbage and wheaten bread by two men of normal stomach, and contents taken out within an hour. We found there was very little cabbage left. I made an examination of the privates of Mary Phagan. I found no spermatozoa. On the walls of the vagina there was evidences of violence of some kind. The epitheleum was pulled loose, completely detached in places, blood vessels were dilated immediately beneath the

surface and a great deal of hemorrhage in the surrounding tissues. The dilation of the blood vessels indicated to me that the injury had been made in the vagina some little time before death. Perhaps ten to fifteen minutes. It had occurred before death by reason of the fact that these blood vessels were dilated. Inflammation had set in and it takes an appreciable length of time for the process of inflammatory change to begin. There was evidence of violence in the neighborhood of the hymen. Rigor mortis varies so much that it is not accurate to state how long after death it sets in. It may begin in a few minutes and may be delayed for hours. I could not state from the examination how long Mary Phagan was dying. It is my opinion that she lived from a half to three-quarters of an hour after she ate her meal. The evidence of violence in the vagina had evidently been done just before death. The fact that the child was strangled to death was indicated by the lividity, the blueness of the parts, the congestion of the tongue and mouth and the blueness of the hands and fingernails. The lungs had the peculiar appearance which is always produced after embalming when formaldehyde is used. I am of the opinion that the wound on the back of the head could not have been produced by this stick (Exhibit 48 of Defendant). I made a microscopic examination of the vagina and uterus. Natural menses would cause an enlargement of the uterus, but not of the vagina. In my opinion the menses could not have caused any dilation of the blood vessels and discoloration of the walls. From my own experiments I find that the behavior of the stomach after taking a small meal of cabbage and bread is practically the same as taking some biscuit and water alone. I examined Mary Phagan's stomach. It was normal in size, normal in position, and normal in every particular. I made a microscopic examination of the contents in Mary Phagan's case. It showed plainly that it had not begun to dissolve, or only to a very slight degree, and indicated that the process of digestion had not gone on to any extent at the time that this girl was rendered unconscious. I found that the starch she had eaten had undergone practically no alteration. The contents taken from the little girl's stomach was examined chemically and the result showed that there were only slight traces of the first action of the digestive juices on the starch. It was plainly evident that none of the material had gone into the small intestines. As soon as food is put in the stomach the beginning of the secretion of the hydrochloric acid is found. It is from the quantity of this acid that the stomach secretes that doctors judge the state and degree of digestion. In this case the acid had not been secreted in such an excess that any of it had become what we call free. In this case the amount of acid in this girl's stomach was combined and was 32 degrees. Ordinarily in a normal stomach at the end of an hour it runs from 50 to 70 or 80. I found none of the pancreatic juices in the stomach which are usually found, about an hour after digestion starts.

CROSS EXAMINATION.

I don't remember when Mr. Dorsey first talked to me about making this autopsy. As long as the heart was beating you could have put a piece of rope

around the neck of this little girl and produced the same results as I found. I took about five or six ounces altogether out of the stomach. It was all used up in making my experiments. I know of no experiments made as to the effect of gastric juices where the patient is dead. The juices of the body after death gradually evaporate. The chemical analysis of each cabbage varies, not only in the plant but from the way it is cooked. It is a very vague matter as to what influences may retard digestion. Every individual is almost a law unto himself. To a certain extent different vegetables affect different stomachs different ways, but the average normal stomach digests anything that is eaten within reason. Some authorities claim that exercise will retard digestion. I don't know that mental activity would have very much effect in retarding the digestion. It is the generally accepted opinion that food begins to pass out of the stomach through the pyloris in about a half an hour. A great many things pass out of the stomach that are not digested. The juices of the stomach make no change in them. The stomach does not emulsify a solid. I never knew a normal man who could digest a solid. The science of digestion is rather a modern thing. I did not call in any chemist in making this examination. I said it was impossible for any one to say absolutely how long the cabbage had been in the stomach of Mary Phagan before she met her death, not within a minute or five minutes, but I say it was somewhere between one-half an hour and three-quarters. I am certain of that. Of course, if digestion had been delayed this time element would change. The violence to the private parts might have been produced by the finger or by other means, but I found evidence of violence. It takes a rather considerable knock to tear epithelium off to the extent that bleeding would occur. I found the epithelium completely detached in places and in other places it was not detached. A digital examination means putting the finger in. The swelling and dilation of the blood vessels could be seen only with a microscope. It is impossible to say how much they were swollen. A scalp wound is very prone to bleed.

C. B. DALTON, Sworn for the State.

I know Leo M. Frank, Daisy Hopkins, and Jim Conley. I have visited the National Pencil Company three, four or five times. I have been in the office of Leo M. Frank two or three times. I have been down in the basement. I don't know whether Mr. Frank knew I was in the basement or not, but he knew I was there. I saw Conley there and the night watchman, and he was not Conley. There would be some ladies in Mr. Frank's office. Sometimes there would be two, and sometimes one. May be they didn't work in the mornings and they would be there in the evenings.

CROSS EXAMINATION.

I don't recollect the first time I was in Mr. Frank's office. It was last fall. I have been down there one time this year but Mr. Frank wasn't there. It was Saturday evening. I went in there with Miss Daisy Hopkins. I saw

some parties in the office but I don't know them. They were ladies. Sometimes there would be two and sometimes more. I don't know whether it was the stenographer or not. I don't recollect the next time I saw him in his office. I never saw any gentlemen but Mr. Frank in there. Every time I was in Mr. Frank's office was before Christmas. Miss Daisy Hopkins introduced me to him. I saw Conley there one time this year and several times on Saturday evenings. Mr. Frank wasn't there the last time. Conley was sitting there at the front door. When I went down the ladder Miss Daisy went with me. We went back by the trash pile in the basement. I saw an old cot and a stretcher. I have been in Atlanta for ten years. I have never been away over a week. I saw Mr. Frank about two o'clock in the afternoon. There was no curtains drawn in the office. It was very light in there. I went in the first office, near the stairway. The night watchman I spoke of was a negro. I saw him about the first of January. I saw a negro night watchman there between September and December. I lived in Walton County for twenty years. I came right here from Walton County. I was absent from Walton County once for two or three years and lived in Lawrenceville. I have walked home from the factory with Miss Laura Atkins and Miss Smith.

RE-DIRECT EXAMINATION.

I gave Jim Conley a half dozen or more quarters. I saw Mr. Frank in his office in the day time. Mr. Frank had Coca-Cola, lemon and lime and beer in the office. I never saw the ladies in his office doing any writing.

RECALLED FOR CROSS EXAMINATION.

Andrew Dalton is my brother-in-law. John Dalton is a first cousin. I am the Dalton that went to the chain gang for stealing in Walton County in 1894. We all pleaded guilty. The others paid out. I don't know how long I served. I stole a shop hammer. That was in case No. L. There were three cases and the sentences were concurrent. One of the other Daltons stole a plow and I don't know what the other one stole. I was with them. In 1899 at the February term of Walton Superior Court I was indicted for helping steal bale of cotton. In Gwinnett County I was prosecuted for stealing corn, but I came clear.

RE-DIRECT EXAMINATION.

It has been 18 or 20 years since I have been in trouble. I was drunk with the two Dalton boys when we got into that hammer and plow stock scrape.

CROSS EXAMINATION.

I don't know whether I was indicted in 1906 in Walton County for selling liquor. I know Dan Hillman and I know Bob Harris. I don't know whether I was indicted for selling liquor to them or not.

RE-DIRECT EXAMINATION.

Miss Daisy Hopkins knows Mr. Frank. I have seen her talking to him and she told me about it.

S. L. ROSSER, sworn for the State.

I am a city policeman. On Monday, April 28th, I went out to see Mrs. White. On May 6th or 7th was the first time I knew Mrs. White claimed to have seen a negro at the factory on April 26th. These are the same chips we had at factory. The club was not on floor by elevator the day I searched the place. I had a flash light and searched for everything. I would have seen it had it been there.

CROSS EXAMINATION.

I made no inquiry of her about this before. She volunteered the information when I came out the second time.

JAMES CONLEY, sworn for the State.

I had a little conversation with Mr. Frank on Friday, the 25th of April. He wanted me to come to the pencil factory that Friday morning that he had some work on the third floor he wanted me to do. All right, I will talk louder. Friday evening about three o'clock Mr. Frank came to the fourth floor where I was working and said he wanted me to come to the pencil factory on Satday morning at 8:30; that he had some work for me to do on the second floor. I have been working for the pencil company a little over two years. Yes, I had gone back there that way for Mr. Frank before, when he asked me to come back. I got to the pencil factory about 8:30 on April 26th. Mr. Frank and me got to the door at the same time. Mr. Frank walked on the inside and I walked behind him and he says to me, "Good morning," and I says, "Good morning, Mr. Frank." He says, "You are a little early this morning," and I says, "No, sir, I am not early." He says, "Well, you are a little early to do what I wanted you to do for me, I want you to watch for me like you have been doing the rest of the Saturdays." I always stayed on the first floor like I stayed the 26th of April and watched for Mr. Frank, while he and a young lady would be upon the second floor chatting, I don't know what they were doing. He only told me they wanted to chat. When young ladies would come there, I would sit down at the first floor and watch the door for him. I couldn't exactly tell how many times I have watched the door for him previous to April 26th, it has been several times that I watched for him. I don't know who would be there when I watched for him, but there would be another young man, another young lady during the time I was at the door. A lady for him and one for Mr. Frank. Mr. Frank was alone there once, that was Thanksgiving day. I watched for him. Yes, a woman came

there Thanksgiving day, she was a tall, heavy built lady. I stayed down there and watched the door just as he told me the last time, April 26th. He told me when the lady came he would stomp and let me know that was the one and for me to lock the door. Well, after the lady came and he stomped for me, I went and locked the door as he said. He told me when he got through with the lady he would whistle and for me then to go and unlock the door. That was last Thanksgiving day, 1912. On April 26th, me and Mr. Frank met at the door. He says, "What I want you to do is to watch for me to-day as you did other Saturdays," and I says, "All right." I said, "Mr. Frank, I want to go to the Capital City Laundry to see my mother," and he said, "By the time you go to the laundry and come back to Trinity Avenue, stop at the corner of Nelson and Forsyth Streets until I go to Montags." I don't know exactly what time I got to the corner of Nelson and Forsyth Streets, but I came there sometime between 10 and 10:30. I saw Mr. Frank as he passed by me, I was standing on the corner, he was coming up Forsyth Street toward Nelson Street. He was going to Montag's factory. While I was there on the corner he said, "Ha, ha, you are here, is yer." And I says, "Yes, sir, I am right here, Mr. Frank." He says, "Well, wait until I go to Mr. Sig's, I won't be very long, I'll be right back." I says, "All right, Mr. Frank, I'll be right here." I don't know how long he stayed at Montag's. He didn't say anything when he came back from Montag's, but told me to come on. Mr. Frank came out Nelson Street and down Forsyth Street toward the pencil factory and I followed right behind. As we passed up there the grocery store, Albertson Brothers, a young man was up there with a paper sack getting some stuff out of a box on the sidewalk, and he had his little baby standing by the side of him, and just as Mr. Frank passed by him, I was a little behind Mr. Frank, and Mr. Frank said something to me, and by him looking back at me and saying something to me, he hit up against the man's baby, and the man turned around and looked to see who it was, and he looked directly in my face, but I never did catch the idea what Mr. Frank said. Mr. Frank stopped at Curtis' Drug Store, corner Mitchell and Forsyth Streets, went into the soda fountain. He came out and went straight on to the factory, me right behind him. When we got to the factory we both went on the inside, and Mr. Frank stopped me at the door and when he stopped me at the door he put his hand on the door and turned the door and says: "You see, you turn the knob just like this and there can't nobody come in from the outside," and I says, "All right," and I walked back to a little box back there by the trash barrel. He told me to push the box up against the trash barrel and sit on it, and he says, "Now, there will be a young lady up here after awhile, and me and her are going to chat a little," and he says, "Now, when the lady comes, I will stomp like I did before," and he says, "That will be the lady, and you go and shut the door," and I says, "All right, sir." And he says, "Now, when I whistle I will be through, so you can go and unlock the door and you come upstairs to my office then like you were going to borrow some money for me and that will

give the young lady time to get out.'' I says, ''All right, I will do just as you say, '' and I did as he said. Mr. Frank hit me a little blow on my chest and says, ''Now, whatever you do, don't let Mr. Darley see you.'' I says, ''All right, I won't let him see me.'' Then Mr. Frank went upstairs and he said, ''Remember to keep your eyes open,'' and I says, ''All right, I will, Mr. Frank.'' And I sat there on the box and that was the last I seen of Mr. Frank until up in the day sometime. The first person I saw that morning after I got in there was Mr. Darley, he went upstairs. The next person was Miss Mattie Smith, she went on upstairs, then I saw her come down from upstairs. Miss Mattie walked to the door and stopped, and Mr. Darley comes on down to the door where Miss Mattie was, and he says, ''Don't you worry, I will see that you get that next Saturday.'' And Miss Mattie came on out and went up Alabama Street and Mr. Darley went back upstairs. Seemed like Miss Mattie was crying, she was wiping her eyes when she was standing down there. This was before I went to Nelson and Forsyth Streets. After we got back from Montag Brothers, the first person I saw come along was a lady that worked on the fourth floor, I don't know her name. She went on up the steps. The next person that came along was the negro drayman, he went on upstairs. He was a peg-legged fellow, real dark. The next I saw this negro and Mr. Holloway coming back down the steps. Mr. Holloway was putting on his glasses and had a bill in his hands, and he went out towards the wagon on the sidewalk, then Mr. Holloway came back up the steps, then after Mr. Darley came down and left, Mr. Holloway came down and left. Then this lady that worked on the fourth floor came down and left. The next person I saw coming there was Mr. Quinn. He went upstairs, stayed a little while and then came down. The next person that I saw was Miss Mary Perkins, that's what I call her, this lady that is dead, I don't know her name. After she went upstairs I heard her footsteps going towards the office and after she went in the office, I heard two people walking out of the office and going like they were coming down the steps, but they didn't come down the steps, they went back towards the metal department. After they went back there, I heard the lady scream, then I didn't hear no more, and the next person I saw coming in there was Miss Monteen Stover. She had on a pair of tennis shoes and a rain coat. She stayed there a pretty good while, it wasn't so very long either. She came back down the steps and left. After she came back down the steps and left, I heard somebody from the metal department come running back there upstairs, on their tiptoes, then I heard somebody tiptoeing back towards the metal department. After that I kind of dozed off and went to sleep. Next thing I knew Mr. Frank was up over my head stamping and then I went and locked the door, and sat on the box a little while, and the next thing I heard was Mr. Frank whistling. I don't know how many minutes it was after that I heard him whistle. When I heard him whistling I went and unlocked the door just like he said, and went on up the steps. Mr. Frank was standing up there at the top of the steps and shivering and trembling

and rubbing his hands like this. He had a little rope in his hands—a long wide piece of cord. His eyes were large and they looked right funny. He looked funny out of his eyes. His face was red. Yes, he had a cord in his hands just like this here cord. After I got up to the top of the steps, he asked me, "Did you see that little girl who passed here just a while ago?" and I told him I saw one come along there and she come back again, and then I saw another one come along there and she hasn't come back down, and he says, "Well, that one you say didn't come back down, she came into my office awhile ago and wanted to know something about her work in my office and I went back there to see if the little girl's work had come, and I wanted to be with the little girl, and she refused me, and I struck her and I guess I struck her too hard and she fell and hit her head against something, and I don't know how bad she got hurt. Of course you know I ain't built like other men. The reason he said that was, I had seen him in a position I haven't seen any other man that has got children. I have seen him in the office two or three times before Thanksgiving and a lady was in his office, and she was sitting down in a chair (and she had her clothes up to here, and he was down on his knees, and she had her hands on Mr. Frank. I have seen him another time there in the packing room with a young lady lying on the table, she was on the edge of the table when I saw her). He asked me if I wouldn't go back there and bring her up so that he could put her somewhere, and he said to hurry, that there would be money in it for me. When I came back there, I found the lady lying flat of her back with a rope around her neck. The cloth was also tied around her neck and part of it was under her head like to catch blood. I noticed the clock after I went back there and found the lady was dead and came back and told him. The clock was four minutes to one. She was dead when I went back there and I came back and told Mr. Frank the girl was dead and he said "Sh-Sh!" He told me to go back there by the cotton box, get a piece of cloth, put it around her and bring her up. I didn't hear what Mr. Frank said, and I came on up there to hear what he said. He was standing on the top of the steps, like he was going down the steps, and while I was back in the metal department I didn't understand what he said, and I came on back there to understand what he did say, and he said to go and get a piece of cloth to put around her, and I went and looked around the cotton box and got a piece of cloth and went back there. The girl was lying flat on her back and her hands were out this way. I put both of her hands down easily, and rolled her up in the cloth and taken the cloth and tied her up, and started to pick her up, and I looked back a little distance and saw her hat and piece of ribbon laying down and her slippers and I taken them and put them all in the cloth and I ran my right arm through the cloth and tried to bring it up on my shoulder. The cloth was tied just like a person that was going to give out clothes on Monday, they get the clothes and put them on the inside of a sheet and take each corner and tie the four corners together, and I run my right arm through the cloth after I tied it that way and went to put it on my shoulder, and I

found I couldn't get it on my shoulder, it was heavy and I carried it on my arm the best I could, and when I got away from the little dressing room that was in the metal department, I let her fall, and I was scared and I kind of jumped, and I said, "Mr. Frank, you will have to help me with this girl, she is heavy," and he come and caught her by the feet and I laid hold of her by the shoulders, and when we got her that way I was backing and Mr. Frank had her by the feet, and Mr. Frank kind of put her on me, he was nervous and trembling, and after we got up a piece from where we got her at, he let her feet drop and then he picked her up and we went on to the elevator, and he pulled down on one of the cords and the elevator wouldn't go, and he said, "Wait, let me go in the office and get the key," and he went in the office and got the key and come back and unlocked the switchboard and the elevator went down to the basement, and we carried her out and I opened the cloth and rolled her out there on the floor, and Mr. Frank turned around and went on up the ladder, and I noticed her hat and slipper and piece of ribbon and I said, "Mr. Frank, what am I going to do with these things? " and he said, "Just leave them right there," and I taken the things and pitches them over in front of the boiler, and after Mr. Frank had left I goes on over to the elevator and he said, "Come on up and I will catch you on the first floor," and I got on the elevator and started it to the first floor, and Mr. Frank was running up there. He didn't give me time to stop the elevator, he was so nervous and trembly, and before the elevator got to the top of the first floor Mr. Frank made the first step onto the elevator and by the elevator being a little down like that, he stepped down on it and hit me quite a blow right over about my chest and that jammed me up against the elevator and when we got near the second floor he tried to step off before it got to the floor and his foot caught on the second floor as he was stepping off and that made him stumble and he fell back sort of against me, and he goes on and takes the keys back to his office and leaves the box unlocked. I followed him into his private office and I sat down and he commenced to rubbing his hands and began to rub back his hair and after awhile he got up and said, "Jim," and I didn't say nothing, and all at once he happened to look out of the door and there was somebody coming, and he said, "My God, here is Emma Clarke and Corinthia Hall," and he said "Come over here Jim, I have got to put you in this wardrobe, and he put me in this wardrobe, and I stayed there a good while and they come in there and I heard them go out, and Mr. Frank come there and said, "You are in a tight place," and I said "Yes," and he said "You done very well." So after they went out and he had stepped in the hall and had come back he let me out of the wardrobe, and he said "You sit down," and I went and sat down, and Mr. Frank sat down. But the chair he had was too little for him or too big for him or it wasn't far enough back or something. He reached on the table to get a box of cigarettes and a box of matches, and he

takes a cigarette and a match and hands me the box of cigarettes and I lit one and went to smoking and I handed him back the box of cigarettes, and he put it back in his pocket and then he took them out again and said, "You can have these," and I put them in my pocket, and then he said, "Can you write?" and I said, "Yes, sir, a little bit," and he taken his pencil to fix up some notes. I was willing to do anything to help Mr. Frank because he was a white man and my superintendent, and he sat down and I sat down at the table and Mr. Frank dictated the notes to me. Whatever it was it didn't seem to suit him, and he told me to turn over and write again, and I turned the paper and wrote again, and when I done that he told me to turn over again and I turned over again and I wrote on the next page there, and he looked at that and kind of liked it and he said that was all right. Then he reached over and got another piece of paper, a green piece, and told me what to write. He took it and laid it on his desk and looked at me smiling and rubbing his hands, and then he pulled out a nice little roll of greenbacks, and he said, "Here is $200," and I taken the money and looked at it a little bit and I said, "Mr. Frank, don't you pay another dollar for that watchman, because I will pay him myself," and he said, "All right, I don't see what you want to buy a watch for either, that big fat wife of mine wanted me to buy an automobile and I wouldn't do it." And after awhile Mr. Frank looked at me and said, "You go down there in the basement and you take a lot of trash and burn that package that's in front of the furnace," and I told him all right. But I was afraid to go down there by myself, and Mr. Frank wouldn't go down there with me. He said, "There's no need of my going down there," and I said, "Mr. Frank, you are a white man and you done it, and I am not going down there and burn that myself." He looked at me then kind of frightened and he said "Let me see that money" and he took the money back and put it back in his pocket, and I said, "Is this the way you do things?" and he said, "You keep your mouth shut, that is all right." And Mr. Frank turned around in his chair and looked at the money and he looked back at me and folded his hands and looked up and said "Why should I hang? I have wealthy people in Brooklyn," and he looked down when he said that, and I looked up at him, and he was looking up at the ceiling, and I said, "Mr. Frank, what about me?" and he said, "That's all right, don't you worry about this thing, you just come back to work Monday like you don't know anything, and keep your mouth shut, if you get caught I will get you out on bond and send you away," and he said, "Can you come back this evening and do it?" and I said "Yes, that I was coming to get my money." He said, "Well, I am going home to get dinner and you come back here in about forty minutes and I will fix the money," and I said, "How will I get in?" and he said, "There will be a place for you to get in all right, but if you are not coming back let me know, and I will take those things and put them down with the body," and I said, "All right, I will be back in about forty minutes." Then I went down over to the beer saloon across the street and I took the cigarettes out of the box and there was some money in there and I took that out and there was two

paper dollar bills in there and two silver quarters and I took a drink, and then I bought me a double header and drank it and I looked around at another colored fellow standing there and I asked him did he want a glass of beer and he said "No," and I looked at the clock and it said twenty minutes to two and the man in there asked me was I going home, and I said, "Yes," and I walked south on Forsyth Street to Mitchell and Mitchell to Davis, and I said to the fellow that was with me, "I am going back to Peters Street," and a Jew across the treet that I owed a dime to called me and asked me about it and I paid him that dime. Then I went on over to Peters Street and stayed there awhile Then I went home and I taken fifteen cents out of my pocket and gave a little girl a nickle to go and get some sausage and then I gave her a dime to go and get some wood, and she stayed so long that when she came back I said, "I will cook this sausage and eat it and go back to Mr. Frank's," and I laid down across the bed and went to sleep, and I didn't get up no more until half past six o'clock that night, that's the last I saw of Mr. Frank that Saturday. I saw him next time on Tuesday on the fourth floor when I was sweeping. He walked up and he said, "Now remember, keep your mouth shut," and I said, "All right," and he said, "If you'd come back on Saturday and done what I told you to do with it down there, there wouldn't have been no trouble." This conversation took place between ten and eleven o'clock Tuesday. Mr. Frank knew I could write a little bit, because he always gave me tablets up there at the office so I could write down what kind of boxes we had and I would give that to Mr. Frank down at his office and that's the way he knew I could write. I was arrested on Thursday, May 1st, Mr. Frank told me just what to write on those notes there. That is the same pad he told me to write on (State's Exhibit A). The girl's body was lying somewhere along there about No. 9 on that picture (State's Exhibit A). I dropped her somewhere along No. 7. We got on elevator on the second floor. The box that Mr. Frank unlocked was right around here on side of elevator. He told me to come back in about forty minutes to do that burning. Mr. Frank went in the office and got the key to unlock the elevator. The notes were fixed up in Mr. Frank's private office. I never did know what became of the notes. I left home that morning about 7 or 7:30. I noticed the clock when I went from the factory to go to Nelson and Forsyth Streets, the clock was in a beer saloon on the corner of Mitchell Street. It said 9 minutes after 10. I don't know the name of the woman who was with Mr. Frank on Thanksgiving day. I know the man's name was Mr. Dalton. When I saw Mr. Frank coming towards the factory Saturday morning he had on his raincoat and his usual suit of clothes and an umbrella. Up to Christmas I used to run the elevator, then they put me on the fourth floor to clean up. I cleaned up twice a week on the first floor under Mr. Holloway's directions. The lady I saw in Mr. Frank's office Thanksgiving day was a tall built lady, heavy weight, she was nice looking, and she had on a blue looking dress with white dots in it and a grayish looking coat with kind of tails to it. The coat was open like that and she had on white slippers and stockings. On Thanksgiving day Mr.

Frank told me to come to his office. I have never seen any cot or bed down in the basement. I refused to write for the police the first time. I told them I couldn't write.

CROSS EXAMINATION.

I am 27 years old. The last Job I had was working for Dr. Palmer. I worked for him a year and a half. I worked before that for Orr Stationery Company for three or four months. Before that I worked for S. S. Gordon. Before that I worked for Adams Woodward and Dr. Honeywell. Got my first job eleven years ago with Mr. S. M. Truitt. Next job was with W. S. Coates. I can't spell his name. I can't read and write good. I Can't read the newspapers good. No, sir; I don't read the newspaper. I never do, I have tried, I found I couldn't and I quit. I can't read a paper right through. I can't go right straight down through the page, and that's the reason I don't read newspapers, I can't get any sense out of them. There is some little letters like "dis" and "dat" that I can read. The other things I don't understand. No, I can't spell "Dis" and "dat". Yes, I can spell "school," I can't spell "collar," I can spell "shirts." I can spell "shoes," and "hat." I spell "cat" with a "k". I can spell "dog," and most simple little words like that. I don't know about spelling "mother." I can spell "papa." I spell it p-a-p-a. I can't spell "father" or "jury" or "judge" or "stockings." I never did go to school further than the first grade. I went to school about a year. I can spell "day," but not "daylight," I can spell "beer" but not "whiskey." I couldn't read the name "whiskey." No, I can't read any letter on that picture there (Exhibit A—State). I can't figure except with my fingers. I know the figures as far as eight, as far as twelve. I knows more about counting than I do about figuring. I don't know what year it was I went to school. I worked for Truitt about two years, for Mr. Coates five years, for Mr. Woodward and Mr. Honeywell about a year and a pressing club about two years, Orr Stationery Company three or four months, Dr. Palmer about a year and a half, and then I went to work for the pencil factory. Mr. Herbert Schiff employed me at the pencil factory. Sometimes Mr. Schiff paid me off, sometimes Mr. Gantt, sometimes Mr. Frank. I don't remember when I saw Mr. Frank pay me off or how many times. I drawed my money very seldom. I would always have somebody else draw it for me. I told Mr. Holloway to let Gordon Bailey draw my money mostly. He's the one they call "Snowball." The reason why I didn't draw it myself I would be owing some of the boys around the factory and I didn't have it to pay, and I would leave the factory about half past eleven so that I didn't have to pay it, and then I would have Snowball draw my money for me mostly. I would see him afterwards and he would give me the money. Sometimes I would go down through the basement out the back way to keep away from them. The reason I let them draw my money I owed some of them, and some of them owed me and I wanted them to pay me first before I paid them. I didn't want to get my money on the inside because I didn't want them to see such a little I was drawing to what they were drawing. I wasn't drawing

but $6.05. Snowball was drawing $6.05. As to who it was I didn't want to see what I was drawing, there was one named Walter Pride; he's been there five years. He said he drew $12.00 a week. Then there was Joe Pride, he told me he drew $8.40 a week. They were down in the basement and asked me how much I was drawing. I told them it wasn't none of their business. Then there was a fellow named Fred. I don't know how much he drew. The next one was the fireman. I don't know how much he drew. There were two or three others, but I didn't have no talk with them. I was just hiding what I drew from Walter Pride. As to whether I couldn't draw my money after Walter drew his without his knowing it, well he would always be down there waiting for me. As to whether I couldn't get my money without his being behind me and seeing what I got, he could see if I tore open the envelope. I had to open it to pay them with. That's the reason I didn't go and draw my money. I know I could have put it in my pocket, but I couldn't tear it open unless I took it out. Yes, the reason I didn't draw my money was because I didn't want to pay them. That's the reason I let Snowball draw my money. They could have slipped up behind me and looked. As to whether I couldn't walk off and keep them from seeing it, if I didn't tear it open, then they would keep up with me until I did. He would follow me around. No, I wasn't trying to keep out of paying them. As to what I was trying to do, if they paid me then I would pay them. The way I liked to settle with them, I liked to take them to the beer saloon and buy twice as much as they get. If I was there when they come in on me, I would say, "I owe you, let's drink it up." Yes, I would get out of it if I could, but if they saw me walk up and pay them that way. I paid Waltel Pride sometimes that way and sometimes the other way. I would say, "I owe you fifteen cents, I buy three beers, and you owe me fifteen cents, and that be three beers." I say if I would be in the beer saloon when they come in there, I would do that, but if I could get out before they saw me, I would be gone. I never did know what time the watchman come there on Saturday, or any Saturday. I never have seen the night watchman in the factory. I have seen young Mr. Kendrick come and get his money. He always comes somewhere about two o'clock to get his money. I have seen him lots of times Saturday and get his money. He always got it from Mr. Frank at two o'clock. No, I didn't know Newt Lee. I heard them say there was a negro night watchman, but I never did know that he was a negro. I knew they paid employees off at twelve o'clock. I don't know what time the night watchman would come there to work. Mr. Holloway stays until 2:30. I couldn't tell the first time I ever watched for Mr. Frank. Sometimes during the last summer, somewhere just about in July. As to what he said to get me to watch for him that was on a Saturday, I would be there sweeping and Mr. Frank come out and called me in his office. I always worked until half past four in the evening. I would leave about half past twelve, ring out and come back about half past one or two. Sometimes I would ring in when I came back and sometimes I wouldn't. I ringed in every morning when I came. I never did ring in much. I would do it after they got after me about it. It was

my habit not to do it. As to how they would know how much to pay me if I didn't ring in, I knew they paid me $1.10 a day, all the time. No, they didn't pay me by the clock punches, they paid me by the day, they paid me 11c. an hour. Sometimes I would punch the clock when I got there; that was my duty. Sometimes I was paid when I didn't work, I don't know how that happened, but Mr. Frank would come and tell me I didn't take out that money for the time you lost last week. I don't know on what date he ever did that on. Yes, I always got my money in envelopes. As to how they would know how much to put in the envelope, when I didn't punch, they would come and ask if I was here every time I didn't ring in, and they would ask Mr. Holloway if I was here. If the clock didn't show any punch, they would ask me if I was here at that hour. No they wouldn't ask how many hours I was here, they would just ask if I was here a certain hour and then they would pay me for the full day, whether I punched the clock or not, just so I punched it in the morning. The lady that was with Mr. Frank the time I watched for him some time last July was Miss Daisy Hopkins. It would always be somewhere between 3 and 3:30. I was sweeping on the second floor. Mr. Frank called me in his office. There was a lady in there with him. That was Miss Daisy Hopkins. She was present when he talked to me. He said "You go down there and see nobody don't come up and you will have a chance to make some money. The other lady had gone out to get that young man, Mr. Dalton. I don't know how long she had been gone. She came back after a while with Mr. Dalton. They came upstairs to Mr. Frank's office, stayed there ten or fifteen minutes. They came back down, they didn't go out and she says, "All right, James." About an hour after that Mr. Frank came down. This lady and man after she said "All right, James" went down through the trap door into the basement. There's a place on the first floor that leads into another department and there's a trap door in there and a stairway that leads down in the basement, and they pull out that trap door and go down in the basement. I opened the trap door for them. The reason I opened the trap door because she said she was ready, I knew where she was going because Mr. Frank told me to watch, he told me wherethey were going. I don't know how long they stayed down there. I don't know when they came back. I watched the door all the time. Mr. Dalton gave me a quarter and went out laughing and the lady went up the steps. Then the ladies came down and left, and then Mr. Frank came down after they left. That was about half past four. He gave me a quarter and I left and then he left. The next Saturday I watched was right near the same thing. It was about the last of July or the first of August. The next Saturday I watched for him about twelve o'clock he said "You know what you done for me last Saturday, I want to put you wise for this Saturday." I said, "All right, what time?" He said, "Oh, about half past." After Mr. Holloway left, Miss Daisy Hopkins came on in into the office, Mr. Frank came out of the office, popped his fingers, bowed his head and went back into the office. I was standing there by the clock. Yes, he popped his fingers and bowed to me, and then I went down and stood by the door. He stayed there

that time about half an hour and then the girl went out. He gave me half a dollar this time. The next time I watched for him and Mr. Dalton too, somewhere along in the winter time, before Thanksgiving Day, somewhere about the last part of August. Yes, that's somewhere near the winter. This time he spoke to me on the fourth floor in the morning. Gordon Bailey was standing there when he spoke to me. He said, "I want to put you wise again for to-day." The lady that came in that day was one who worked on the fourth floor; it was not Miss Daisy Hopkins. A nice looking lady, kind of slim. She had hair like Mr. Hooper's. She had a green suit of clothes on. When Miss Daisy Hopkins came she had on a black skirt and white waist the first time. I don't know the name of that lady that works on the fourth floor. Yes, I have seen her lots of times at the factory, but I don't know her name. She went right to Mr. Frank's office, then I went and watched. She stayed about half an hour and came out. Mr. Frank went out of the factory and then came back. I stayed there and waited for him. He said, "I didn't take out that money." I said, "Yes, I seed you didn't." He said, "That's all right, old boy, I don't want you to say anything to Mr. Herbert or Mr. Darley about what's going on around here." Next time I watched for him was Thanksgiving Day. I met Mr. Frank that morning about eight o'clock. He said "A lady will be in here in a little while, me and her are going to chat, I don't want you to do no work, I just want you to watch." In about half an hour the lady came. I didn't know that lady, she didn't work at the factory. I think I saw her in the factory two or three nights before Thanksgiving Day in Mr. Frank's office. She was a nice looking lady. I think she had on black clothes. She was very tall, heavy built lady. After she came in that Thanksgiving Day morning, I closed the door after he stamped for me to close it. She went upstairs towards Mr. Frank's office. Mr. Frank came out there and stamped, and I closed the door. Mr. Frank said, "I'll stamp after this lady comes and you go and close the door and turn the night latch." That's the first time he told me about the night lock. And he says, "If everything is all right you kick against the door," and I kicked against the door. After an hour and a half Mr. Frank came down and unlocked the doors and says, "Everything is all right." He then went and looked up the street and told the lady to come on downstairs. After she came down, she said to Mr. Frank, "Is that the nigger?" and Mr. Frank said, "Yes," and she said, "Well, does he talk much?" and he says, "No, he is the best nigger I have even seen." Mr. Frank called me in the office and gave me $1.25. The lady had on a blue skirt with white dots in it and white slippers and white stockings and had a gray tailor-made coat, with pieces of velvet on the edges of it. The velvet was black and the cloth of the coat was gray. She had on a black hat with big black feathers. I left a little before 12 o'clock. I didn't see anybody else there that day at the office. The next time I watched was way after Christmas, on a Saturday about the middle of January—somewhere about the first or middle. It was right after New Year, one or two, or three or four days after. It was on a Saturday. He said a young man and two ladies would be coming. That was that Saturday morning at half past seven. I was

standing by the side of Gordon Bailey when he come and told me, and he said, I could make a piece of money off that man. Yes, Snowball could hear what he said. The man and ladies came about half past two or three o'clock. They stayed there about two hours. I didn't know either one of the ladies. I can't describe what either one of them had on. The man was tall, slim built, a heavy man. I have seen him at the factory talking to Holloway, he didn't work there. I have seen him often talking to Holloway, through the week. You asked me what I did the second Saturday after I watched for him, well, I don't remember. As to what I did the Saturday I watched for him the second time, I disremember what I did. The Saturday after that, I think about the first of August, I did some more watching for him. I don't remember what I did the Saturday before Thanksgiving day. I don't remember what I did the Saturday after Thanksgiving day. I don't remember what I did the next Saturday. I don't know, sir, what I did the next Saturday. The next Saturday I did some watching for him. I watched for him somewhere about the last of November after Thanksgiving Day. No, I don't remember any of those dates. Couldn't tell you to save my life what time I left home the first time I watched for him. I couldn't tell you what time I got to the factory the second time I watched for him, nor what time I left home. I don't know whether I drew my money on the first Saturday I watched for him. I disremember whether anybody else drew my money for me the second Saturday I watched for him. I don't know how much I drew. I couldn't tell you whether I drew my money Thanksgiving Day or not. I don't know how much I drew. I don't remember what time I got down or what time I left. I don't know when I got to the factory the day before Thanksgiving, or how long I worked there. I don't remember how many hours I worked the first Saturday I watched for him or the second, or the third, or Thanksgiving Day. No, I don't know how much I drew on those days. The first time I was in prison was in September. The next time was sometime before Christmas, I can't remember the date. I was there thirty days. It was somewhere along in October. A year before that I was in prison too, about thirty days. I have been in prison three times since I have been with the pencil company. I have been in prison about three times within the last three or four years. I have been in prison seven or eight times within the last four or five years. I can't give you any of the dates, nor how long I stayed there any of the times that I was there. I don't know what month or what day it was, nor how long I stayed there. I knew the factory was not going to be run on April 26th. Yes, Snowball and I drink beer together sometimes in the building. Yes, we used to go down in the basement and drink together, but he aint the only man. I never was drunk at the factory. Snowball wasn't there the first Saturday I watched for Mr. Frank. I think he laid off. I don't know whether he was there the second or third Saturdays, I didn't see him Thanksgiving morning, but I saw him the day before Thanksgiving. That was the time that Mr. Frank told me to watch for him. He talked to me before Snowball. I don't know whether Snowball was there in January when I watched. Snowball was there in January in the box room when Mr. Frank

told me to watch for him. I don't know whether Mr. Frank knew he was there or not. There were eight niggers in all working in the factory. Snowball, the fireman and me did just plain manual labor, the rest of the negroes had better jobs. Snowball, the fireman and I were the last negroes to get jobs there. We were the new darkies; the others had been working there before we went there. Mr. Frank used to laugh and jolly with me. I couldn't tell you the first time he did this. Mr. Darley has seen him jollying me. They would jolly me together. They would play and go on around there with me. It has been so long ago I can't tell you any of the jokes. Mr. Schiff and Mr. Holloway has seen him joking with me. He would say, "Come on I am going to make a graveyard down there in the basement if you don't hurry and bring that elevator back up here." Mr. Holloway heard him say that. Mr. Schiff has seen him playing with me. He would goose me and punch me and tell me I was a good negro. I don't remember anything else he said. Yes, Mr. Darley would goose me and kick me a little bit, just playing with me. Mr. Schiff would crack jokes with me. I don't remember the time. The time Mr. Frank came in the elevator and told me about watching for him, he didn't know Snowball was in there. Snowball was standing right there by me. Mr. Frank could have seen him and he could have heard anything that was said. He saw Snowball standing there. I have been at the factory over two years. I don't remember the day or month I went there. It was some time in 1910. I don't remember whether it was summer or winter. Miss Daisy Hopkins worked on the fourth floor in 1912. I don't know when she quit. I saw her working from June, 1912, up until about Christmas. Yes, I worked on the same floor with her, I don't know whether she worked there in 1913. Miss Daisy was a low lady, kind of heavy, and she was pretty, low, chunky kind of heavy weight. I don't know what color hair she had or eyes, or her complexion. She was light skinned. She looked to be about twenty-three. I know she was there in June, because she gave me a note to take down to Mr. Schiff. I remember that because the note had June on it. Mr. Schiff said it had "June" on it when he read it. I can't read but he read that note and he read "June something," it was on the outside of the note. It was on the back of the note. "June" was written on the back of that note. She wrote the note and folded it up and he read "June" on the back of it and he laughed at it. The reason I know she left the factory during Christmas because Mr. Dalton told me she wasn't coming back. He told me that one Saturday coming down to the factory. I never have seen Mr. Dalton except at the factory. No, he doesn't work there. I saw him somewhere along in January. He came out that time by himself. He and a lady had been down in the basement. The last time I saw him the detectives brought him down at the station house and asked if I had ever seen him in there. I saw Mr. Holloway at the factory the first Saturday I watched for Mr. Frank. The next Saturday I watched, he was sick and wasn't there. He was sick two Saturdays in June. I disremember whether I saw Mr. Schiff and Mr. Darley. I remember seeing Mr. Darley at the factory on Thanksgiving Day. I don't remember what time he left. I

couldn't tell you anybody who came to the factory the first Saturday I watched. The second time I think there were some young ladies working up on the fourth floor. I don't know about the third time. I don't know whether anybody was working there Thanksgiving or not. I didn't see Mr. Schiff at all. I will swear that he was not in the office with Mr. Frank. I don't know whether any ladies were working there the next time or not. I have been back in the metal department, but I nevr have been on the right hand side where the machines are. I have swept on the second floor, but not in the metal department. I don't know where those vats are back there. I don't know what you are talking about. I don't know anything about the plating room. I never have been in Mr. Quinn's office. I have put disinfectants in the ladies and gentlemen's closets back there. I wouldn't go inside. I would only go to the door. I stood outside of the door and sprinkled it in a little way. Outside of that, and going to Mr. Quinn's office I have never been on the left hand side of the factory. I have been there where they wash the lead at, and I have stuck bills in Mr. Quinn's office. Yes, I have been back in there where that dark place is. I don't know how many times I have stacked some boxes back in there. I have been back there three times altogether. Sometime before Christmas. Yes, sir, you can see from the top of the stairway back in there. I have been back there three times altogether. Sometime before Christmas. Yes, sir; you can see from the top of the stairway to Mr. Frank's inside office. A man sitting at Mr. Frank's desk can see people coming up the stairway if he is watching for them. If the safe door is open I don't hardly think he can see them. If it is shut he can. I am certain of that. I thought you were talking about the third floor. He couldn't see people coming up from the first floor. He can see them after they get along by the clock. I left the factory 5:30 Friday afternoon, bofore the factory stopped. I think I punched when I went out. One of them was ten minutes fast. That was the one on the right, I left there without drawing my money because I knew I wasn't going to draw but $2.75 and I owed the watchman a dollar anl I knowed I wouldn't have enough for me and to pay him and I told Mr. Holloway to let Snowball draw it for me. Snowball drew it for me and met me at the shoe shop at the corner of Alabama and Forsyth Street. He gave me $3.75. I wasn't supposed to draw but $2.75, and Mr. Frank taken that dollar for the watchman and stuck an extra dollar in my envelope and that made $3.75. I don't remember how many beers I drank Friday. Yes, I told Mr. Scott I got up at 9 o'clock that morning. That wasn't true. I ate breakfast about seven. Yes, I told Mr. Black I ate at 9:30. That wasn't true. I left my house beteween 7 and 7:30. I told Mr. Scott I left somewhere between 10 and 10:30. No, that wasn't true. I got to Peters Street about 25 minutes to 8. I don't know how long I stayed there. Some things in my affidavit that I made that are true. Yes, there are some things in my last affidavit that are true. I was arrested on the first of May. I sent for Mr. Black to come down when I made my first statement on May 18th. Yes, I denied I had been to the factory in that statement. I made

that statement in the detectives' office. Mr. Black and Mr. Scott were present. They didn't question two or three hours. I did some writing before then, before that statement was made. Yes, I know I did some writing before May 18th. I did some writing in Chief's office that Sunday. I told Black I bought whiskey on Peters Street at about 10:30. I told them I paid forty cents for it. I don't remember telling them that I bought the whiskey at 11 o'clock. Yes, I told them I went into the Butt-In Saloon after I went to Earley's for the whiskey. Some of it I told them was the truth and some of it wasn't. They asked me if I was lying and I held my head down. I held back some of the truth, and when they asked me if that was the truth I hung my head down. I didn't want to give the man away, but I wanted to tell some and let him see what I was going to do and see if he wasn't going to stick to his promise as he had said. I told them I went into Butt-In Saloon and saw some negroes at tables shooting dice and I won ninety cents and bought a glass of beer. I told them that I went to three beer saloons. I told them after I went home at 2:30, I went to Joe Carr's saloon and got 15c. worth of beer. I don't remember telling them that I went there between 3:30 and four o'clock. The detectives talked to me nearly every day after I made my first statement. Sometimes hours at a time. No, they didn't cuss me. Yes. I sent for Black on May 24th. When the statement came out in the papers that's the time I sent for him. As to how I knew it came out in the papers, I heard the boys across the street hollering extra papers. Mr. Black came down after I sent for him and I told him it's awful hot in here, and I told him I was going to tell him something, but I wasn't going to tell him all of it now. I told him that I would tell him part and hold part back. Scott and Black were both there. Yes, I told Mr. Black on May 24th, the time I made the second statement, that I helped tote the little girl. I sure remember that. I think I told them about Mr. Frank getting me to watch for him, that he told me he struck a girl and for me to go back and get her. I didn't give Mr. Frank clear away that time. I kept some things back. I don't remember now whether I told them at that time or not. I don't know whether I told them about going down the basement or not. The first time I told them I wrote the notes on Friday. They didn't tell me my story wouldn't fit. I don't remember them telling me anything about changing my statement. I told them that was all I had to say. They never told me they wanted me to tell anything else. They didn't say anything to me that it didn't sound right. Mr. Black talked to me right smart and Mr. Lanford talked to me a little. No, they never talked to me a whole day. As to why I changed my statement from Friday to Saturday, I put it on Saturday, because I was at the factory on Saturday. As to why I didn't put myself there on Saturday, the blame would be put on me. I didn't want them to know that I had written any notes for Mr. Frank. Yes, in that statement I told the officers I was going to tell the whole truth. I told them that I got up at nine o'clock, because there was nothing doing at the factory that day at the time. I said I was there at 9 o'clock, because he had done told me where to meet him at. Yes. I told them that I was going to tell the whole truth. Yes, the

reason I told them I left home at 9 or 9:30, because there was not anything doing at the factory at that time. I told them it was about 9 o'clock when I looked at the clock, because I don't know what time it was when I looked at the clock, and I told them I had some steay and some sausage for breakfast and a piece of liver and I drank some tea and bread. Well, there was some sausage, but I don't know whether I ate it or not. Yes, I had steak, liver and sausage for breakfast. I know I ate the steak and a piece of liver, and drank a cup of tea and ate some bread. I got up that morning at six o'clock. Yes. I told the officers I got up at 9 or 9:30. I don't remember anything else I told them. Yes, I told them that I went straight to Peters Street and went in the first beer saloon there, and drank two beers and gave a fellow a beer, that had a whip around his neck. I told them three saloons and I called two names. I don't know whether I told them about this whiskey or not. I told them I bought it between 10 and 10:30. No, that is not true. I told them that on account of my saying I didn't leave home until about 9 or 9:30. I bought it about a quarter to eight. The reason I told these lies about the time was because I didn't want to put myself at the factory twice, because there wasn't anything doing at the factory that morning. That is the only reason I told that story. I don't know when the first time was I told them I got there at 8 o'clock instead of 10 or half past, it was after I got out of jail up there. I guess I made most of these changes after I got out of jail. I don't know who the detective was I told about my not leaving home at 9 o'clock. Four of them were talking to me, all at the same time. I think it was Starnes and Campbell that I told that to, about changing the time. I don't remember whether I told them then that I was going to tell the whole truth. I told them that after I got out of jail, after I got back to headquarters. If you tell a story you know you've got to change it. A lie won't work, and you know you've got to tell the whole truth. Yes, I knew it was bound to come when I told it the first time. I didn't tell the whole truth then, because I didn't want to give the whole thing away then. In the statement where I told about my moving the little girl for Mr. Frank, the reason why I didn't correct it then about the time I bought the liquor, I don't know whether I did it then or not, but I did tell them. I told them I drank four or five beers that morning. I told them at the first saloon I bought two beers. I didn't tell them I bought any wine at that time. I told them I had some wine put in my beer. What they call wine. It wasn't any wine though. I don't know whether I told them that in the statement I made about moving the little girl or not. The wine was put in my beer at Mr. Earl's beer saloon on Saturday morning. I told that to Mr. Black and Mr. Scott, I don't remember when. As to my not testifying about that yesterday, you didn't ask me that. I remember telling you that yesterday. I remember saying I didn't buy any wine. No, I didn't say anything about putting beer in wine yesterday, but I remember I said something about putting wine in beer. I know I told you that yesterday. I don't remember telling them I started straight from Peters Street to Capital City Laundry. I told them I started for the Laundry after leaving Mr. Frank at the factory. If they have got it down

there, I must have said so. I don't remember saying it. I told them I met Mr. Frank at the corner of Nelson and Forsyth Street before I went to the factory. Yes, I told them I went from Peters Street and met him at the corner of Nelson and Forsyth before I went to the factory. As to why I told them that story, because I did meet him there. No, I didn't go straight from Peters Street to meet him at the corner of Nelson and Forsyth as I told them. I went straight from Peters street to the pencil factory. I don't remember when the first time I told the truth about it. I told it either to Mr. Starnes, Mr. Campbell, Mr. Black or Mr. Scott. I told it after I got out of jail, I remember telling the officers when he said "Ah, ha," when I met him at the corner. I don't remember telling the officers that he asked me where I was going and I told him I was going to the Capital City Laundry to see my mother. I don't remember saying that to the officers. If I did say that it was not the truth. As to why I lied about that, because I did tell Mr. Frank down there when I left the factory that I was going to see my mother. I told the officers he stayed at Montag's about twenty minutes. I did tell you yesterday that I didn't have any idea how long he stayed there, because I haven't any idea now. As to why I didn't say yesterday that it was twenty minutes, because you didn't ask me. I didn't tell Mr. Dorsey how long it was, because he didn't ask me what I told the detectives about it, but I told the detectives that. I told them that story because I didn't have any idea how long he stayed there. I don't know how long Mr. Frank stayed there. I told the officers twenty minutes as that was the best I could do about it, so I just told him twenty minutes. I told the detectives about wanting me to watch for him when I got back to the factory. I don't know why I didn't tell them that at the time I told them about moving the body. I don't remember who I told it to or when, but I told them. I did tell them about Mr. Frank stamping his foot. I don't know whether I told them at the time I told about helping move the body. I told it to Mr. Scott, Mr. Black, Mr. Campbell, Mr. Starnes and Mr. Dorsey. Mr. Starnes and Mr. Campbell wasn't in there sometimes when I told it. No, I didn't tell it to Mr. Scott and Mr. Black. They dropped the case and Mr. Starnes and Mr. Campbell taken it up. They came down and was talking to me for a month or more in my cell. Yes, I told Mr. Black about Frank stomping his foot and Mr. Scott. I told them all about it. Yes, I told the detectives that the first party I saw going up the factory after I got back from Montag's was Miss Mattie Smith. That was a mistake. I didn't see Mr. Darley go up after I got back from Montag's. No, I didn't say yesterday that I saw him go up after I got back from Montag's. I don't know whether Mr. Darley saw me or not. I was sitting right there at the box. He could have seen me if he had looked, so could Miss Mattie Smith. The rest of them could have seen me if they had looked. Yes, I told the officers the first time I saw them go up was after I got back from Montag's. That was not so. I was just mistaken about it. Don't know when I corrected the mistake or to whom. Yes, I stated it to Mr. Dorsey. It was after I came from jail. I have corrected it to Mr. Starnes and Mr. Campbell too. It was about 11:30 when Mr. Darley left the factory, right after we got

back from Montag's. It may have been about 11 o'clock. Miss Mattie Smith left the factory somewhere about 9:30. It was after we got back from Montag's that I saw Mr. Darley leave. Mr. Holloway and the peg-legged negro went upstairs and came down before Mr. Darley left the factory. They could have seen me sitting on the box, as they came out the factory. Mr. Holloway left about 10 or 15 minutes after Mr. Darley left. It may have been four or five minutes. After Mr. Holloway left, I told them Mr. Quinn came in. I may have told them that a lady dressed in green was the next one. That wasn't true. A lady in green did go up before Mr. Darley came down. She came down before Holloway and Darley left. If I told the officers that she went up after they left, I made a mistake. Mr. Quinn was the next man that went up after Mr. Holloway came down. Yes, I said that yesterday. Yes, I said yesterday Mr. Quinn was the last man I saw come down. No, I didn't say yesterday Miss Monteen Stover came down after Mr. Quinn came down. I might have told the officers that I saw Mr. Holloway return upstairs, turn to the right toward Hunter Street and go in the factory. If I did, I made a mistake. I don't remember all the mistakes I made. No, I have never told about a lady going up there after them six or seven minutes, I was mistaken. I don't know whether I have ever corrected that mistake or not. She went upstairs and Mr. Quinn went up and came down before she did. If I told the officers she stayed there 7 or 8 minutes and came right down, I made a mistake. I don't think I corrected that mistake at all. I don't know how long it was after she came down before any body else went up and down. If I told the officers it was 10 or 15 minutes that was a mistake. I don't think I corrected that mistake at all. I haven't got any idea at all how long before the lady in green came down that anybody else went up. Yes, I told Mr. Scott and Mr. Black that the only people who went up at all were Miss Mattie Smith, Darley, Holloway and the woman in green, and nobody went up and down until Mr. Frank whistled. No, that wasn't true. The reason why I told that story was because I didn't want them to know that these other people passed by me, for they might accuse me. The reason why I didn't tell them was because I didn't want people to think that I was the one that done the murder. I told them that I saw those four men go up because I didn't think they saw me sitting there, and I didn't tell of seeing the other people for fear they would report on me. The reason why I told the police about those four going up there, because that is all I could remember that went up and down. I don't know when my memory got fresher about other people going up and down. I think it was after I got out of jail. I think I corrected that with Mr. Starnes, Mr. Campbell and Mr. Dorsey, at police headquarters. After I corrected with the detectives down at headquarters, they took me to Mr. Dorsey's office. I have been in Mr. Dorsey's office three times. Mr. Dorsey was down at headquarters with me I think about four times. As to whether it took Mr. Dorsey about seven times to get my testimony straight, it didn't take him that long to get it straight, it took that long for me. As to why I didn't tell it all, I didn't want to tell it all. I was intending to hold back some. I didn't want

to tell it all right at one time. I just told a little and kept back a little. Yes, and Mr. Dorsey went down seven times while I was telling some and holding back some. They didn't ask me to take back any stories. No, it didn't take Mr. Dorsey seven times to tell the story. Yes, I said I added to it every time he went down. But he wouldn't come back and try to do anything with it. I didn't tell the officers that I went to a moving picture show after I left the factory. I said I looked at the pictures from the outside. I told them I went on Peters Street and looked at the pictures from the outside. I stayed there about ten or fifteen minutes. I drank two glasses of beer. I don't know whether it was in the first, second or third statement that I told about watching for Mr. Frank. Two of the detectives were there. Yes, I locked the front door that Saturday of the murder. I don't know what time. It was somewhere after dinner. I can't give you any estimate. It was later than 12 o'clock. It wasnt one o'clock, because it was four minutes to one after I went upstairs and came downstairs and unlocked the door. Yes, I heard the stamping before I locked the door, and I heard the scream before I heard the stamping. After he stamped for me I went and locked the door. I couldn't tell to save my life how long the door stayed locked. I was upstairs between the time I locked the door and the time I went down and unlocked it. I unlocked the door before I went upstairs. I locked the door when he stamped and I unlocked it when he whistled. As soon as he whistled I unlocked the door and went upstairs. Mr. Frank sent me back in the metal department. He wouldn't go back there with me. When he whistled that was the signal for me to unlock the door and the stamping was for me to unlock the door. He showed me how to lock the door that day. He showed me how to lock the door on Thanksgiving Day too. I don't know how he came to show it to me again. I guess he thought I forgot it. When I went down to leave the doors were unlocked, both doors were unlocked. The only thing I remember Mr. Frank telling me was not to let Mr. Darley see me around the door, that a young lady would be up there after awhile to chat, and he wanted me to watch for him. No, he didn't tell me what he wanted me to meet him at Nelson and Forsyth Street for. Yes, I could have come back to the factory just as well as going to meet him at Nelson and Forsyth Street if he had told me that. I don't know why he told me to meet him at Nelson and Forsyth. I don't remember telling the officers that I met him accidentally at Nelson and Forsyth Street. Mr. Frank stayed at Montag's about an hour. Mr. Frank went to Montag's between 10 and 10:30 and stayed about an hour. I guess it was about a half an hour. Mr. Frank didn't say a thing about why he wanted me at the corner of Nelson and Forsyth Street. Before we went to Montag's he said he didn't want me to say anything to Mr. Darley that there was going to be a young lady there after a while, and he told me that again after we came back from Montag's. Mr. Frank gave me that signal about stamping and whistling on Thanksgiving Day and he repeated it again that day. I told yesterday how he done it, like I am telling now. I think I am telling the truth now. We had been back from Montag's about five minutes when the lady in the green dress went up. She

stayed up there a good little while, ten or fifteen minutes. I didn't tell the officers the peg-legged negro went up first. I didn't tell them in the first statement. I may have told them in the next statement. The peg-legged negro didn't stay up stairs no time. Came back down with Mr. Holloway. Mr. Darley came down five or ten minute after Mr. Holloway came down. Yes, that was after he came back from Montag's. I have no idea what time it was. After Holloway came down, the lady with the green dress came down. She went on out and Mr. Quinn came in. He went up and came down before Monteen Stover came in and before Mary Phagan came in. Yes, I am certain of that. No one else came in after Mr. Quinn except Mary Phagan. Mr. Quinn, Monteen Stover and Mary Phagan went in almost the same time. They went and came out almost together. Quinn first, Mary Phagan next and Monteen Stover next. Mr. Quinn had already come out of the factory when Mary Phagan went up. I didn't see Mrs. Barrett, or Miss Corinthia Hall or Miss Hattie Hall or Alonzo Mann, or Emma Clarke. I didn't see none of them. I never saw Mrs. White go in there at all that day. I was sitting on the box all the time. I got up twice to make water. I made water against the elevator door, right in front of the elevator shaft. Miss Stover had done gone then, and Mr. Quinn also. I went to sleep after Miss Monteen Stover came down. Don't know how long I was asleep, maybe ten of fifteen minutes. I heard the scream before I went to sleep, before Monteen Stover ever went in there. Mr. Quinn had already gone. I told the officers I didn't see Mary Phagan go up at all. I didn't tell them I heard any scream. I don't know when I first told that story. I told Mr. Starnes and Mr. Campbell. That was after I got out of jail. I said I heard the scream before I went to sleep, which I did. Monteen Stover came up and went down before I went to sleep. I told Mr. Starnes and Mr. Campbell about somebody running back on tiptoes. I don't know when I told them. He woke me up stamping, then I locked the door, and went to the box and kicked on the side of the elevator door. It was about ten or fifteen minutes after he stamped that I heard him whistle. When he whistled I unlocked the door. I don't know when I first told about Mr. Frank standing at the top of the stairs, trembling and nervous. I told Mr. Dorsey, Mr. Starnes and Campbell. I don't know why I didn't tell it the day I told them I was going to tell the whole truth. I didn't mean to keep back anything then. That day I told them everything I remembered. When I got to the top of the stairs, Mr. Frank had that cord in his hands. I don't remember when I first told about that. If I didn't tell it that day when I said I was telling the whole truth, I just didn't remember it. When I told Black and Scott that I was telling the whole truth I didn't say anything about Mr. Frank having hit the little girl. I thought I had told them that. I have told that to some of the officers. I remember now that I told them that. He told me to get her out of there some way or other. He didn't say she was dead. I didn't know she was dead. I went back there and found the cord around her neck. When I looked at the clock it was four minutes to one. That was after I went and seen the girl was dead, and he told me to bring her up there. I was

standing at the steps. I could see the clock from there. Then I went back and got a piece of striped bed tick, something like your shirt there, had whitish looking stripes on it. I taken the cloth and spread it down and rolled the little girl in the cloth and tied it up. When I laid her down in the cloth, I tied the cloth around her. I did my best. Her feet were hanging out of the cloth, also her head. If I didn't tell Black and Scott anything about the hat and the slippers and the ribbon, they must not have asked me. I know I took the things and pitched them in front of the boiler. The elevator don't hit hard when it hits the ground. The wheels at the top don't make any noise. The motor makes a little noise, something like a June bug. The elevator hits the dirt at the bottom, but it don't make any noise. I left the factory about 1:30. The reason why I didn't tell Scott and Black I wrote four notes instead of two, they didn't ask me how many I wrote. Another reason why is, because Mr. Frank taken that and folded it up like he wasn't going to use it. I wrote three notes on white and one on green paper. The green one is the one he folded up like he wasn't going to use it. I don't know how long it took me to write those notes. It took me somewhere about two minutes and a half, I reckon. The reason I didn't tell Scott and Black about burning the body, because someone had done taken them off the case. Mr. Scott told me. The first time I told that was to Mr. Starnes and Mr. Campbell after I came back from jail. I don't remember telling the officers that Mr. Frank told me he was going to send those notes to his folks up North. If they have got it down there I must have said it. He told me he was going to write to his mother and tell her that I was a good negro. The reason I didn't take the parasol down with the shoes, it was too far back for me to see it. I got my hair cut last week. My lawyer sent the barber. They gave me a bath and bought me clean clothes. My wife gave me my shirt. I didn't read any newspapers on Monday about this crime. It don't do me no good because I can't make any out. I didn't try to read any that day. I washed that shirt on Thursday, May 1st, in the metal room about half past one or two. As to how that dung came to be in the elevator shaft, when Mr. Frank had explained to me where he wanted to meet me and just as I started out of the place that negro drayman came in there with a sack of hay and I gave him a drink of whiskey that I bought at Earley's saloon on Peters Street that morning, and he suggested that I go down in the basement and do it, there's a light down there, and I went down the ladder and stopped right by the side of the elevator, in front of the elevator, somewhere about the edges of it. No, I didn't see the two white men go up and talk to Mr. Frank in his office that day. No, I didn't see a man by the name of Mincey at the corner of Carter and Electric Avenue that day. I didn't tell him that I killed a girl that day. I didn't say I killed one to-day and I didn't want to kill another. I didn't tell Harlee Branch that Mary Phagan was murdered in the toilet room on the second floor, or that the body was stiff when I got back there, or that it took at least thirty minutes to get the body down stairs and write the notes. I don't remember telling Miss Carson on May 1st, that Mr. Frank was innocent. I didn't have any conversation with

Miss Mary Pirk on April 28th and she didn't say that I committeed the crime and I didn't shoot out of the room immediately after she said that I didn't tell Miss Carson on Monday that I was drunk all day Saturday. I didn't see her at all on Monday. I didn't tell Mr. Herbert Schiff on Monday that I was afraid to go on the street, that I would give a million dollars if I was a white man. I said if I was a white man I would go on out. I didn't say nothing about no million dollars because I don't know what it takes to make a million. I didn't ask Miss Small on Monday what the extra had in it and I didn't say Mr. Frank is just as innocent as you are. I didn't ask Miss Fuss on Wednesday for an extra, I didn't tell her that I thought Mr. Frank was as innocent as the angels in heaven.

RE-DIRECT EXAMINATION.

I never was in jail until April 26th. I have been down at police headquarters several times. First time I was arrested was for throwing rocks. I was a small boy then. I was arrested another time for fighting black boys, then I was arrested about drinking and disorderly, and the last time I was arrested was about fighting again. I never have fought with a white man or white woman. Police officers took me down to jail and to door where Mr. Frank was. I never did see Mr. Frank in jail. The last time I saw Mr. Frank was in the station house before I had talked. He looked at me and smiled and bowed his head. While I was writing the notes, Mr. Frank took the pencil out of my hand and told me to rub out that "a" I had down there on the word "negro." I saw Mary Phagan's pocketbook, or mesh bag, in Mr. Frank's office after he got back from the basement. It was lying on his desk. He taken it and put it in the safe. When I went back to see about the girl, it wouldn't have taken more than about a minute to go down and lock and unlock the door. He had time enough to do it. Mr. Scott talked to me about three hours and a half one Thursday. Mr. Frank told me he would send me away from here if they caught me. He would get me out on bond and send me away. I never saw Mincey before seeing him at the station house in Mr. Lanford's office. I had orders from Mr. Frank to write down how many boxes we needed and give it to him. I didn't tell Mr. Black or Mr. Scott about the mesh bag because they didn't ask me. I disremember when I first told about it. I think it was after I was in jail. I told Mr. Dorsey about it after I came out of jail. Mr. Frank knew for a whole year that I could write. I used to write for him the word "Luxury," "George Washington," "Magnolia," "Uncle Remus," "Thomas Jefferson," that's the name of pencils. I spell "Uncle Remus" "O-n-e Rines." I spell "Luxury" "L-u-s-t-r-i-s." I spell "Thomas Jefferson" "T-o-m J-e-f-f or J-e-i-s-s." I spell "George Washington" "J-o-e W-i-s-h-t-o-n." After Mr. Frank found out what I meant he understood it. I spell "ox" "o-x." Yes I wrote him orders to take money out of my wages. The pocketbook was a wire looking whitish looking pocketbook, had a chain to it. You could take it and fold it up and hold it in one hand. When I

wrote the word "Luxury" and "Thomas Jefferson," I didn't have anything at all to copy from. I was writing it down for Mr. Frank.

MRS. J. A. WHITE, recalled for the State.

I have seen this man before at police headquarters (indicating Conley) about a month after the murder. At that time I did not identify him as being the man I saw sitting on the box. The man sitting on the box was about the same size as Jim Conley. I couldn't state it was Jim Conley. He was sitting in a dark place, and he looked black to me. He had on dark clothes. I don't know whether he was bareheaded or not. I told Bass Rosser about this on May 7th. That was the first time I told of it.

CROSS EXAMINATION.

I told the detective about this as soon as I saw one. I never kept it a secret from anybody. I spoke to Mr. Wade Campbell about seeing the darkey. I didn't tell him that I saw the negro as I went up into the factory about 12 o'clock. I didn't tell him that, when I came down the steps the last time, I didn't see anybody.

C. W. MANGUM, sworn for the State.

I had a conversation with Mr. Frank at the jail about seeing Conley and confronting him. Conley was on the fourth floor. Chief Beavers, Chief Lanford and Scott came down to see Mr. Frank with Conley and asked me if they could see him. I went to Frank and told him the men were there with Conley and wanted to talk with him if he wanted to see them. He said, "No, my attorney is not here and I have nobody to defend me." He said his lawyer was not there; that no one was there to listen at what might be said.

N. V. DARLEY, recalled for cross-examination.

On the ground floor the door to the Clark Woodenware Company was nailed up immediately after that company left there. We found it broken open after the murder and we nailed it up again. It was two or three days after the murder. Sitting at Mr. Frank's desk, the most that one can see is about half of clock No. 2, which is on the left of clock No. 1. If the safe door was open in the outer office, you have no view into Mr. Frank's office from the outside. You might tiptoe and look over the door. A man of my height could just tiptoe and see over it. The packing room next to Mr. Frank's office works from 11 to 17 ladies and men. Passing by elevator shaft as you go in building on ground floor, you come to a door to Clark Woodenware Company's place, which was nailed up immediately after that company left there. We found it broken open after the murder. I don't know what day, it must have been two or three days after, and we nailed it up again.

(Witness identifies various portions of factory from the factory model—Defendant's Exhibit 4). There is no lounge, sofa, cot or bed in the whole factory. I found two boxes down in the basement in Clark Woodenware side of old dirty, rotten stuff, too dirty and rotten for a human being to rest upon. It's boggy in there. They had on top of them some dirty, filthy, nasty crocus sacks. There is no lounge, bed, sofa or anything of the sort in the metal room. I have never seen a chair in there. I have never seen any blood under the machine that Barrett claims he found hair on. I never saw any blood on the place the negro claims the little girl's body was lying. You can get into the metal room either from the front or the back if the back door is open. You can lock the back door from the inside. There is a cross bar across the door. The rule was to keep it locked, but a great many times I found it unlocked. It was very dark around the elevator on the first floor on April 26th. It was a cloudy day and darker than usual because the front doors were closed. It's too dark to stand on the outside and see through the elevator. I left the factory with Mr. Frank on his way to Montag Brothers. I never saw Jim Conley that day. I never saw Mr. Frank talk to him or speak to him or come into contact with him in any way that day. I have never goosed or pinched Jim Conley or jollied with him. I kicked him when I caught him loafing, and sometimes I would take a piece of board to him and he would laugh every time I did it. I have never seen Mr. Frank goose or pinch him or play with him or jolly him. No, I never knew Daisy Hopkins. I have never seen Dalton until this morning. From June, 1912, until January, 1913, I left the factory at twelve o'clock on Saturdays, and usually came back between five and six. I did that most every Saturday during the two years that I have been there. I may have missed sometimes, but not many. Only on one occasion do I recall that Mr. Frank said he would not be there on Saturday afternoon. I would visit the factory every Saturday afternoon between five and six to find out how the financial was for the week. I found Mr. Frank in his office on every occasion except the one I have mentioned above. Mr. Schiff would help him on the financial. A few Saturdays I have gone there and Mr. Schiff was not there. He may have been on his vacation. I hire and discharge all the help. I come in contact with the help ninety per cent. more than Mr. Frank. Mr. Frank has nothing to do with employing or discharging them. On Saturday, Holloway is supposed to leave the factory at four o'clock and the night watchman comes on. We had no negro night watchman there last September as stated by Mr. Dalton. Our night watchman was Mr. Kendricks, a white man. The first time we ever hired a negro night watchman was three weeks before the murder. As to who else stayed at the factory on Saturday afternoons, usually the office boy, sometimes the stenographer, Walter Pride, who cleans up the third floor. I have never known any other time but Saturday that the financial sheet was worked on, except possibly a holiday. I saw Conley on Monday. He looked to be excited and when I spoke to him he failed to look up as he usually does. I went around the factory that morning and looked at everybody

to see if I could pick out a man that looked suspicious, and Jim Conley was the man I thought looked most suspicious. The latter part of last year I issued orders that the sweepers must stop cleaning up by twelve o'clock and if they hadn't cleaned up by that time they would have to knock off and leave the factory. If they stayed there after twelve o'clock I didn't know anything about it. Harry Denham usually stayed in the factory every other Saturday afternoon to clean the motor and oil the machinery and he selected someone to stay with him. He would do this about twice a month. The girls in the packing department did quite some overtime work on Saturday afternoon.

RE-DIRECT EXAMINATION.

I have made no contribution toward the fund to defend Frank. I don't know anything about Daisy Hopkins' general character. I don't know who nailed up the door on the Clark Woodenware side. Lots of people have been there all over the factory. If a body had been shot down the chute, behind those boxes, it would have been hidden more than where it was found. The boxes around the chute are piled nearly to the top. I never noticed any difference in the boxes Sunday from what I left them there Saturday. No, I don't know anything about Conley being there Saturday afternoons and watching. He wasn't there by my instructions. There is a good deal of water on the floor of the metal room. On payday in order to keep the people from coming down the back, the instructions are always to close the back door to the metal room. There is no special reason for the paint to go out of the polishing room, but it is out in other places. It is carelessly done. You can see haskoline scattered around. The floor in metal room where body is supposed to have been found has a rise of several inches in it, something like an edge. As to whether a man standing up and looking over the safe door hasn't got a vision going beyond the clock so that he could see everybody that registered, he couldn't see it. I tried it. I don't know whether either the clock or the desk has been moved before I went to see. My recollection is that the table is nailed to the wall and the clock screwed to the table. You can tear the whole thing up and move it. The desk could not be moved without my knowing it. I didn't have the clock fixed after April 25th.

RE-CROSS EXAMINATION.

On Friday last I made an experiment by sitting at Frank's desk and leaned over as far as I could see through the outer door towards the clock. I could see half of the circle on clock No. 2. I could not see any of the other clock at all. The clock and desk could not have been moved without my instructions. The paint is scattered all round. It gets all over the place and we can't prevent it. We never have washed the metal room floor since I have been there. We never found any water or blood where it was said the girl's body was found in the metal department. The view I got from front door on April 26th into area around elevator shaft was blocked by boxes.

RE-DIRECT EXAMINATION.

I communicated immediately with the police when we found the blood back there. I think Harry Scott was the first man I reported Conley's nervousness to. It was on Monday, April 28th.

E. F. HOLLOWAY, recalled for cross examination.

I am the day watchman and time keeper. I look after the register to see that everybody registers. No, it was not a habit of Conley to register or not as he pleased and to get his pay anyhow. If he didn't register I always got after him. I applied the same rule to him as I did to anybody else. I never saw Mr. Frank goose, pinch or joke with Conley. I never saw him touch him in any way, unless it was when he would go in the office to borrow money, I would see him hand him a quarter, or something. He surely was a good hand at borrowing, but Mr. Frank would never let him have a nickel but what he owed him. Up till twelve months ago the sweepers stayed at the factory until about 2:30, but then they made a rule that any sweeping that wasn't done by noon on Saturday would have to go over until Monday and since that time no negroes have been there since 12 o'clock. We never had any negro night watchmen in July, August, September, or any time last fall. We never had a negro night watchman until we hired Lee, which was about three weeks before the murder. Since June of last year, on Saturday afternoons, I always stayed around the factory and looked after seeing that nobody came in or out, unless they had business. I never have seen anybody goose Conley. Sometimes I would kick him to make him go on to his work. The door that leads to the Clark Woodenware place never was locked. It was nailed up when the Clark Woodenware moved out of there. I nailed it up myself. It was open on the Monday after the murder. It led back to a chute in the rear, and to two waterclosets on the right. Nobody occupies that now. I was at the factory every Saturday since last June excepting legal holidays when the factory was shut down. I did not miss a single Saturday in July, August, September, October, November, December, and January, excepting legal holidays. On Thanksgiving day I stayed there until 12 or 1 o'clock. I have never missed a Saturday since I have been working at the factory. I would be relieved on Saturdays at 4:30 p. m. I would go all over the building trying to see that everything is all right. That was my business. I have never known Mr. Frank to have any woman on Saturdays excepting his wife. She came there on Saturdays and went home with him, about once a month. Mr. Schiff helped Mr. Frank on his books on Saturdays. Conley never did watch the door down stairs. If he did, it must have been after 4:30 p. m. I never did see him giving signals to Mr. Frank and Frank giving him signals from upstairs. I was obliged to have seen them if he had watched the door. I sat mainly in the front of the building to see that nobody came in the building. I do not recall any Saturday afternoon that Frank and Schiff missed

except when Schiff was off on his vacation. I have never seen any of them bring any women in there or take any out. I have never been sick or missed a single Saturday since last year. I would leave about 4:30 Saturday afternoon. I have never seen Dalton in the factory at all. I wouldn't have let a fellow like that in the building unless I knew what his business was. There was nobody practicing any immoralities in the building. If they did I would know it. I would have put them out quickly. Daisy Hopkins quit sometime in May or June last spring. She has never been there since she quit. Mr. Darley left the factory between 9 and 10 o'clock on April 26th. He was not there after 11 o'clock at all. If he was, he was there after 11:45, the time I left there. I have never seen the front doors locked on Saturday. I was at the factory until noon on Thanksgiving day. I saw no girls with white shoes and stockings there that day. I never saw Jim Conley that day. I never saw any woman at the factory that day. I sure would have seen Conley had he been watching the door that day. I have seen Mr. Frank at the factory every Saturday afternoon after he comes back from lunch. I would pass in and out of his office three or four times in the afternoon. I have never seen a glass of beer as long as I have been there. I have never seen any women up there. He would be working on his books. Mr. Schiff would be helping him. The stenographer and shipping clerk would sometimes be up there. People would be liable to drop in there on business and I would send them up to Mr. Frank's office. I always kept the door on Saturdays. I never turned it over to Conley or anybody else. I have let Mrs. Frank in and would tell her to go up in the office and have a seat. This man Wilson worked on Saturday afternoon most all the time. Oiled up the motor and cleaned it while the factory was closed. Pride, Harry Denham, Charlie Lee, and Fast usually worked there on Saturday oiling the machinery after they shut down and different things. They were not shut off by any doors from going anywhere they wanted in the factory. They were liable to come down and around any time. I have never seen the doors either to the outer or inner office of Mr. Frank locked. They have got glass fronts in them that you can see through, and it would not have done any good to have shut them. The windows in Mr. Frank's office looked right out on Forsyth street. The shades to them are torn up so they don't amount to much. In the morning they will pull them down to keep the sun out. When they are up you can see across the street. Salesmen frequently visited Frank on Saturday afternoons when they came in from their runs without any announcement. I have never known Mr. Frank to refuse to see any of them. It is very dark about the elevator shaft on the ground floor. The shaft is about ten or twelve feet from the steps. If a girl was coming down the steps and a man was in that dark place it would be a very easy job for him to throw her down the shaft. He could grab her before she ever saw him because she would be looking toward the door. The members of the firm of Montag Brothers frequently visited the factory on Saturday afternoons. I remember seeing Drayman McCrary on April 26th. He came around to see if there was any hauling. I don't

remember the time. I never saw Conley on April 26th. If he was there he was skulking around and hiding. I never saw McCrary talking to him that day. On Monday morning I saw Conley, instead of being upstairs where he ought to be sweeping, he was down in the shipping room watching the detectives, officers and reporters. I caught him washing his shirt. Looked like he tried to hide it from me. I picked it up and looked at it carefully and it looked like he didn't want me to look at it at all. The day before that he went out with a pair of overalls corresponding to this blue shirt that he has, and he said he wanted to carry them to a negro at Block's candy factory and he had not had time to have gone to the candy factory before he came back and said that they were taking stock over there and would not let him in. The overalls had been washed and dried and I could not tell if there is anything on them or not. I don't know whether he can write or not. At your request to-day I walked from the middle of the car track at the corner of Broad and Hunter to the pencil factory and then upstairs in Mr. Frank's office. I walked just in an ordinary way like I thought a lady would walk. It took me two and a half minutes. I walked from the corner of Marietta Street and Forsyth Street to the pencil factory. It took me six minutes.

RE-DIRECT EXAMINATION.

I didn't have any conversation with Kendrick, the night watchman, since this murder was committed as to whether or not Frank ever called him after he left the factory that night. No, I did not try to get Kendrick to swear that. No, I didn't tell Whitfield the day before they turned up that big club "Be sure to come back to-morrow, you will be certain to find something." So far as I know the general character of Daisy Hopkins is good. I don't remember telling you the contrary. I don't deny signing that affidavit. (Ex. "I" State.) I don't remember telling you in this paper (Ex. "I" State) "She is anything but a nice girl. You can't depend on what she says." Yes, I said it in the affidavit I gave it was 10:45 when Mr. Frank and Mr. Darley left. Mr. Frank got back about 11 o'clock. That was all guess work about the time they left. I never said anything about getting the reward for Jim Conley. I told some of the detectives several days after they came down after the negro if this negro is convicted he is my negro. I knew about the reward being offered. If I told you that I sometimes left the factory at three o'clock I meant four o'clock. Jim Conley worked regularly at the factory except when he was in the stockade thirty days. Conley registered every morning, but a lots of times he would not register at dinner and sometimes at night. I nailed up the door that leads into the Clarke Woodenware place on Monday because we never let that door stand open. Mr. Darley told me to do it. I know it was not open on Saturday. It was nailed up Saturday noon when I left there and it was open Monday when I got there. The chutes back there were nailed up. The one next to the rear end of the building I know was nailed up to keep the Clarke Woodenware people from coming up through there. Boxes were piled up back in there. That stairway back there has been nailed up for

some time. Hasn't been used since Christmas. If the negro went out and bought beer I didn't know it. I never saw him. I don't recollect whether the drayman was up there April 26th to get his pay or not. There was so much excitement in the factory on Monday that we shut down about 9:30. Nobody stayed at their work. Jim Conley quit work like everybody else and went out. As to one thing that Conley did that the others didn't do I haven't got any. The shirt he was washing was the same shirt he had been wearing all day. I say that he was trying to hide the shirt because he was trying to push it over behind the pipe where you couldn't see it. He had the shirt on when he was arrested. He was not trying to hide it then.

RE-CROSS EXAMINATION.

I was subpoenaed to Mr. Dorsey's office by regular court subpoenas. I thought I had to go there. There were three or four men when I got there.

GEORGE EPPS, re-called for cross examination.

I was present on Sunday after the murder when a gentleman came out to the house and talked to me and my sister about when was the last time we had seen Mary Phagan. He didn't ask me, he asked my sister. I wasn't there. I was in the house. I didn't hear him ask my sister that.

HARRY SCOTT, re-called for State.

It took Jim Conley two or three minutes to write out the notes that I dictated to him.

CROSS EXAMINATION.

I knew on Monday that Mrs. White claimed she saw a darkey at the pencil factory. I gave that information to the police department. Mr. Frank gave me the information when I first talked to him. I never inquired of Frank or any of the pencil factory people if Conley could write. Sunday, May 18th, I was present when Conley made his statement. May 18th. I wrote it out myself. (Defendant's Exhibit 36.) He made no further statement on that day. He stated that he did not go to the pencil factory at all that day. At that time I knew he could write. He told me everything that was in that statement. The information that Conley could write came from the pencil factory on May 18th. On May 18th I dictated to Conley these words: "That long tall black negro did by himself." I dictated each word singly and I should judge it took him more than six or seven minutes to write it. He writes quite slowly. When he was brought before Mrs. White to see if she could identify him he was chewing his lips and twirling a cigarette in his fingers. He didn't seem to know how to hold on to it. He could not keep feet still. He positively denied on May 18th that he had anything to do with the murder of Mary Phagan and that he was at the factory at all. We talked

very strongly to him and tried to make him give a confession. We used a little profanity and cussed him. He made that statement after he knew that I knew he could write. We had him for about two or three hours that day. He made another statement on May 24th which was put in writing. (Defendant's Exhibit 37.) He was carried to Mr. Dorsey's office that day and went over the statement with Mr. Dorsey. He still denied that he had seen the little girl the day of the murder. He swore to all that the statement contains. That statement was a voluntary statement from him. He sent for Mr. Black and we went there together. We questioned him again very closely for about three hours on May 25th. He repeated the story that he told in his statement of May 24th. We saw him again on May 27th in Chief Lanford's office. Talked to him about five or six hours. We tried to impress him with the fact that Frank would not have written those notes on Friday. That that was not a reasonable story. That showed premeditation and that would not do. We pointed out to him why the first statement would not fit. We told him we wanted another statement. He declined to make another statement. He said he had told the truth. On May 28th Chief Lanford and I grilled him for five or six hours again, endeavoring to make clear several points which were far-fetched in his statement. We pointed out to him that his statement would not do and would not fit. He then made us another long statement on May 28th (Defendant's Exhibit 38), having been told that his previous statement showed deliberation; that that could not be accepted. He told us then all that appears in the statement of May 28th. He never told us anything about Mr. Frank making an engagement for him to stamp for him and for him to lock the door. He told us nothing about seeing Monteen Stover. He did not tell us about seeing Mary Phagan. He said he did not see her. He didn't say he saw Lemmie Quinn. Conley was a rather dirty negro when I first saw him. He looked pretty good when he testified here. Frank was arrested Tuesday morning at about 11:30; on May 29th we had another talk with him. Talked with him almost all day. Yes, we pointed out things in his story that were improbable and told him he must do better than that. Anything in his story that looked to be out of place we told him wouldn't do. After he had made his last statement we didn't wish to make any further suggestion to him at that time. He then made his last statement on May 29th (Defendant's Exhibit 39.) He told us all that appears in that statement. We tried to get him to tell about the little mesh bag. We tried pretty strong. He always denied ever having seen it. He never said that he saw it in Frank's office, or that Frank put it in his safe. We asked him about the parasol. He didn't tell us anything about it. He didn't tell us anything about Frank stumbling as he got on the street floor at the elevator and hit him. Since making this statement on May 29th I have not communicated with Conley and have not seen him. He never told us that he came from his home straight to the factory. He denied knowing anything about the fecal matter down in the basement in the elevator shaft. He never said he went down there himself between the time he first came to the factory and went to Montag's. He never said he thought the name of

the little girl was Mary Perkins. He never said anything at all about Mary Perkins. We pressed him that day as to whether he saw Mary Phagan or not. He finally told us that he saw her dead body. He never did tell us that he heard a lady scream though we asked him about it. He said he did not hear anybody scream while he was sitting on the box. He said he didn't hear anything at all that day. He never said anything about Mr. Frank having hit her, and having hit her too hard. He never said anything about somebody running on tiptoes from the metal department and back again. He said he did not hear any stamping. He did not tell us anything about Mr. Frank telling him how to lock the door. He did not tell us anything about Frank having a cord in his hand at the top of the steps or that Frank looked funny about his eyes or that his face was red. He didn't tell us that he went back there and found the little girl with a rope around her neck and a piece of underclothing or that he went back to Mr. Frank and told him the girl was dead, or that he wrapped her in a piece of cloth. He said it was a crocus sack. He did not say anything about Mr. Frank saying "Sh-sh." He didn't say that he put the sack on his shoulder and that body dangled round about his legs. He said he never saw the ribbon; didn't know where it was. We asked him whether there was any thought of burning the body and he said not. He didn't know anything about that. He never said anything about his promising to come back and burn the body or that he said to Mr. Frank "You are a white man and done it, and I am not going down there and burn it myself"; or that Mr. Frank had arranged to give his bond and send him away; or that Frank said he would have a place to get in by when he came back to burn the body, or said he owed a Jew ten cents and paid it. He did not tell us of any conversation he had with Mr. Frank on Tuesday after the murder in which Mr. Frank said "If you had come back on Saturday and done what I told you there wouldn't have been any trouble." As to the scene between Conley and me when I undertook to convince him that I knew he could write on Sunday, May 18th, I called him up at Chief Landford's office, gave him a paper and pencil and told him that we understood he said he couldn't write and now we knew he could write and we wanted him to write what we told him. He sat there and looked at us while we were talking and I told him to write as I dictated and he picked up the pencil and wrote immediately. We convinced him that we knew he could write and then he wrote.

RE-DIRECT EXAMINATION.

I got information as to Conley writing through my operations while I was out of town. McWorth told me when I returned. I got no information personally about Conley being able to write from the Pencil company people. Personally I did not get information as to Conley's being able to write from Pencil company. I got it from outside sources, wholly disconnected with the Pencil company. As to whom I first communicated anything about Mrs. White's statement about seeing a negro down there, my impression is I told it in my many conversations with Black, and Chief Lanford and Bass Rosser.

Don't know the day. It was shortly after April 28th. After Conley made his last statement Chief Beavers, Lanford and I went to the jail with Conley and saw the Sheriff and he went to Frank's cell. The last time I saw Frank was Saturday, May 3rd. As to whether Mr. Frank refused to see me, only through Sheriff Mangum, as to the number of matters I told Conley didn't fit the first time and those I told him didn't fit the last time, I could not name those, that would almost be impossible unless I had the statement clear in my head. I never suggested what to put in or what to substitute or what to change. They came from Conley himself.

THE STATE RESTS.

EVIDENCE FOR THE DEFENDANT.

W. W. MATTHEWS, sworn for the Defendant.

I work for the Georgia Railway & Electric Co. as a motorman. On the 26th day of April I was running on English Avenue. Mary Phagan got on my car at Lindsey Street at 11:50. Our route was from Bellwood to English Avenue, down English Avenue to Kennedy, down Kennedy to Gray, Gray to Jones Avenue, Jones Avenue to Marietta, Marietta to Broad, and out Broad Street. From Lindsey Street to Broad Street is about a mile and a half or two miles. We make frequent stops. We were scheduled to arrive at Marietta and Broad at 12:07 1-2. We were on schedule. We stayed on time all day. Our car turned up Broad St. Mary Phagan got off at Hunter and Broad. It takes generally from two and a half to three minutes to go from Broad and Marietta to Broad and Hunter. That is a very congested street and you must go slow. I was relieved at Broad and Marietta by another motorman, but sat down in the same car one seat behind Mary Phagan. Another little girl was sitting in the seat with her. We got to Broad and Hunter about 12:10. Mary and the other little girl both got off and walked to the sidewalk and they wheeled like they were going to turn around on Hunter Street, both of them together. The pencil factory is about a block and a half from where they got off at Hunter and Broad. Nobody got on with Mary at Lindsey Street. There wasn't any little boy with her. The first time I noticed the little girl sitting with Mary was when we left Broad and Marietta Street and I went back into the car and saw this little girl sitting with her. I know the little Epps boy. I have seen him riding on my car. He did not get on the car with her at Lindsey Street. I saw Mary's body at the undertaker's. It was the same girl that got on my car.

CROSS EXAMINATION.

I did not tell one of the detectives that we might have been running three or four minutes ahead of schedule that day. I remember that Mary did not

get off the car at Broad and Marietta because there was a street car conductor sitting behind me, an ex-conductor and he had a badge on his coat and I looked at it and it had a little girl's picture and I reached over to where Mary was and said, "Little girl, here is your picture," and she said, "No, it is not." I don't know who the other little girl was sitting with her. The other little girl was dressed something like Mary. I didn't pay much attention to their dresses, but they looked sort of alike. Mary's dress wasn't black. It was light colored. I know Epps since this case came up. I could identify him. I never paid much attention to her hat. It was light colored I reckon but I am not sure. It just seemed that way.

RE-DIRECT EXAMINATION.

I identified Mary's body Sunday afternoon after the murder at the undertaker's. There was no doubt about her being the same girl. I knew her well by sight. She rode on my car lots.

RE-CROSS EXAMINATION.

I can't tell you whether that is the hat or not she wore.

W. T. HOLLIS, sworn for the Defendant.

I am a street car conductor. On the 26th of April I was on the English Avenue Line. We ran on schedule that day. Mary Phagan got on at Lindsey Street at about 11:50. She is the same girl I identified at the undertaker's. She had been on my car frequently and I knew her well. No one else got on with her at Lindsey Street. Epps did not get on with her. I took up her fare on English Ave., several blocks from where she got on. And no one was sitting with her then. I do not recollect Epps getting on the car at all that morning. Don't know whether anybody else afterwards sat with Mary or not. We got to Broad and Marietta seven and a half minutes after twelve, schedule time. I was relieved at Forsyth and Marietta Streets, where I got off. Mary was still on the car when I got off. It takes two and a half minutes to run from Broad and Marietta to Broad and Hunter. I have timed the car again and again since then. I identified the little girl at the undertaker's Sunday afternoon. Didn't notice the color of her clothes.

CROSS EXAMINATION.

Mary rode with us two or three times a week. So did Epps. I don't know where he got off or where he got on. We are not supposed to come in ahead of time. We never come in two or three minutes ahead of time. We are a little late sometimes. I never noticed anybody sitting with Mary. She was sitting by herself when I got her fare. There wasn't but two or three passengers on the car and I know there wasn't anybody sitting with her. If Epps was on the car I don't recollect it. I don't recall the name of any other

passengers except Mary Phagan. As to what attracted my attention to Mary getting on the front end of the car, as a general rule when she would catch our car Mr. Matthews would say to her "You are late to-day," and sometimes she would come in and remark that she was mad; that she was late to-day and when she came that morning Mr. Matthews said to her, "Are you mad to-day?" and she said, "Yes, I am late." And sort of laughed and came on in the car and sat down. She usually caught our car when she came in the morning, the one due in town at 7:07. I didn't know Mary's name, I just recognized Mary's face as the little girl who traveled with us.

RE-DIRECT EXAMINATION.

I heard of the murder the next day. Newspaper reporters asked us to go down and identify the girl. There was no doubt about her being the little girl who was on our car. Oliver Street is the next street to Lindsey. I did not see Epps get on at Oliver Street. It is against the rule of the company to get to the city ahead of time.

RE-CROSS EXAMINATION.

It is not against the rules to get in behind time. Sometimes we might get there a few minutes ahead of time, but hardly ever. We always look at our watches at the main destination, just at Broad and Marietta. We are supposed to do that.

HERBERT G. SCHIFF, sworn for the Defendant.

I am assistant superintendent of the National Pencil Co.; I have been with the company about five years. Part of my duties was to get up data for the financial sheet. I occupied the same office as Mr. Frank. I took a trip on the road on the first Saturday in January. All of the company's money except the petty cash was kept over at Montag Bros.' office at the general manager's office, Mr. Sig Montag. All mail of the company is received at Montag Bros. The men in Mr. Montag's office made the deposit of money of the company. Mr. Frank and I only handled the petty cash ranging from $25.00 to $50.00. When we wanted money for the pay roll, we would get a check from Mr. Sig Montag who signed for the company. Mr. Frank and I had no authority to sign checks. I would go to the bank and get the money and we would go to work at once filling the pay envelopes. We would always draw the exact amount of the pay roll. Our petty cash amounted to from $25 to $50. We kept that on hand for items like drayage, kerosene, soap, candles. The money for the cash would also come from Mr. Montag's office. The salary of Mr. Frank and myself were paid by check, on the last of the month, or the first of the next month. Mr. Frank's salary was $150 a month and my own $80. Montag Bros. office is about four blocks from the factory. The company's bills were paid from Montag Bros.' office, where all the finances

of the company were taken care of. We simply looked after the manufacturing end. The financial sheet which Mr. Frank and I worked on on Saturdays showed how our week terminates, whether at a profit or loss. We had to show what we manufactured, what we packed, the materials that were made to go on the pencils, covering lead, plugs, tips, boxes. We showed our shipments, what our average order jobs amounted to, what we purchased for and the price. Our factory week began on Friday night and went through Thursday night. In making up the financial sheet we would show it as ending on Thursday of every week. We couldn't make it up until Saturday afternoon because our reports very seldom came in before Friday noon and sometimes Saturday morning and also our pay roll which showed on the financial sheet. These reports and the pay roll were necessary to make up the financial sheet. We paid off at Saturday noon. It has been our fixed custom ever since we have been in existence to make up the financial sheet on Saturday. I help Frank make out the financial sheet by getting up part of the data, getting up a sheet that we term the factory record, the number of pencils packed for the week, getting up the tip records; I get the reports from the different foremen and foreladies; I get the slat records from the slat mills, the number of slats delivered to manufacture pencils with, and give him the totals of the pay roll. With the exception of the last week in July and the first week in August I missed no time from the factory after June 1st, excepting my trip on the road during January. With that exception I have not missed a single Saturday after the first of June, 1912. I usually leave the factory at 12:30 and return at 2 to 2:15. Frank would leave a little after one and return about three. I do not recall a single Saturday that Frank returned earlier than I did. As soon as Frank would get back he would get to work on his part of the data and he would continue to finish the sheet. We both worked together. The street doors were always open. Office boy would be in the outer office. Frequently we were interrupted by salesmen calling on us Saturday afternoon. The stenographers came back very seldom on Saturday afternoon. We were liable to be interrupted at any time on Saturday afternoon by people on business. As to who else stayed at the factory on Saturday afternoon, Harry Denham usually, Walter Pride, Holloway, who would stay until 4:30. Newt Lee was the first negro night watchman we ever had. Frank and I usually left the factory at half past five or a quarter to six on Saturdays, we usually left together. Very often Mrs. Frank would come up to the office on Saturday. I never saw Conley around the office on Saturday afternoon after two o'clock. We never had any women up in the office. I never saw any there. There is not a bed, cot, lounge or sofa anywhere in the building. There is a dirty box with dirty crocus sacks on it in the basement on the Clarke Wooden Ware Company side. It is very filthy and dirty down there. I went on the road on the first Saturday in January, 1913. I got back to the factory that day about 2:15, in the afternoon. There were ten or twelve fellows there. Conley was not there. They were all there and told me good-bye, with the exception of two or three who accompanied me to the train, including Mr.

Frank. There were no women at the factory. I have never seen Mr. Dalton in the factory in my life. Daisy Hopkins worked on the office floor. She left the factory June 6th, 1912, as appears on the time book. Never saw her in the factory after she quit work. On the first Saturday in January, Frank remained in the office with me until 5 o'clock to catch my train. I was at the factory last Thanksgiving day. It was very cold and rainy. It was a holiday at the factory. The office boy and Conley were also there. I ordered Conley to come back that day to clean up the box room with Frank Payne, the office boy. Conley got through about half past ten. I know he did not stay at the factory until noon. Frank and I were all of the time in the office doing clerical work. Frank left that day at 12 o'clock. We left together. I saw Frank catch his car for home that day. Frank was carrying bundles, for the B'nai B'rith, which was going to have an affair that night. Mr. Frank is president of it. It is a charitable organization. It takes care of orphans and things of that sort. I paid off the help on Friday, April 25th, from the pay window outside of the office. I remember paying off Helen Ferguson that day. Nobody came up to ask for Mary Phagan's pay. Before any one could get another's envelope, they have to have a note to that effect. There was no reason for anyone to go to Mr. Frank to get their pay Friday, April 25. I was at the window paying off employees. We had posters put up all over the factory announcing that Saturday would be a legal holiday and that the factory would be closed. Those who would not call for their pay would frequently come in on the next working day, which in this instance would be Monday. No one could really know whether anyone was coming in for their pay on Saturday or not. Helen Ferguson did not ask for Mary Phagan's pay Friday, April 25th. Mr. Frank and I left the factory between six and six thirty that day. I was supposed to get up the pencil contracts for the week on Friday. It was necessary to get this up in order to complete the financial sheets. I did not get them up on Friday, because I had to pay off on Friday, and as the week only closed on Thursday night, we had all we could do to figure out the pay roll and get the money before the bank closed at 2 o'clock on Friday. That threw extra work on Mr. Frank in getting up the financial on Saturday. I intended to come back to the factory on Saturday morning, but overslept myself. Mr. Frank called me by telephone twice on Saturday morning. My maid answered the telephone. That picture (State's Ex. "A") shows Mr. Frank's office, inner office, to be bigger than the outer office. As a matter of fact the outer office is twice as large as the inner office. The picture shows an inaccuracy as to the relative position of the elevator shaft from the outer wall of Mr. Frank's office. It is directly opposite the time clock. The picture shows it below the time clock nearly to where the staircase is. The door entering into the Clarke Wooden Ware place was open two or three days after the murder. The door was previously locked. There is a hole back there through which waste is thrown down. It is an open hole. There is no lid to it. It is big enough for the body of a girl of the size of Mary Phagan to go through. If a body was thrown down it, it would roll down and

stop on the platform. Mr. Frank did not know that I had not completed the data sheet (Defendant's Ex. "3") for him before Saturday morning. It usually took Mr. Frank and me about three hours to finish the financial sheet. This is the financial sheet that Mr. Frank made up on Saturday afternoon, April 26th (Defendant's Ex. "2"). It is in his handwriting. I didn't see it at the factory on Friday. First saw it the following week when I got it back from the general manager. It is accurately prepared from the calculations left by me on the data sheet. I haven't found any mistakes in it. The first items on it are standing items and do not require any calculation, if you know it. Those are the items headed, "direct, indirect, rent, light, heat, water, power, insurance, sales department, repair sundries, Machine Shop." Under the heading "Material Costs," the first figure 2765 1-2 represents the number of gross that we manufactured for that week. That is the data I furnished him through Wednesday night. I left it there on his desk on Friday night. Mr. Frank's calculation corresponds with the data that I left there. He arrived at the same figure, 2765 1-2, that I did. To get that figure he had to enter all his packing reports for Thursday containing two or three pages, each of them containing 12 to 15 or 18 items. He has to put that down under the number of pencils that shows on this sheet. He has to calculate and have a separate report as to each kind of pencil and then add them up. We manufacture over a hundred kinds of pencils. That week we dealt with about thirty-five different kinds. To do this you have to add, multiply, classify and separate each pencil into a different class. The next item appearing on the financial sheet is "slats," 2719 1-2. In calculating that he had to calculate the number of gross of slats used, of the product of the pencils, which should check up with the number of gross manufactured. He would have to go through the packing report for that. The next item is "rubber," 720 gross at 6 1-2 cents, 667 1-2 at 9 cents, 706 1-2 gross at 14 cents. That means the rubber plug that goes into the pencil tips. The cheaper pencil takes a cheap plug and the higher grade pencil takes a higher grade plug. That shows how many we use and the kind of plugs; to arrive at that figure he had to go all through the grade of pencils for the entire week, and separate the different ones. That is quite a calculation. Next item is "tips," the different kind of tips that are used on the pencil to hold the plug. He would have to go through the grade for the entire week, just like he did for the rubber. The next item is "lead," which he had to figure out the same way. Different class pencils take different class lead. The next item is "supplies," that is a fixed thing and involves no calculation. The next thing is "boxes." We have some pencils that are packed in boxes and some that are not packed in boxes, and he had to ascertain what pencils were packed in boxes, and in gross boxes, and in half gross boxes, multiply them, get them all down together under the head of "gross" to know how many boxes we used. Next item is "assortment boxes." He has to sort out his packing reports to know the number had for that week. The next item "wrappers" requires calculation because every dozen pencils takes a wrapper. People sometimes want them

packed in tissue paper, and he has to know which pencils are packed. He has got to go through all the pencils to determine which took wrappers and which did not. Our pencil production averaged 2500 to 3000 gross per week. A gross is 144. The next item is "skeletons." Skeleton is a card board with a little place in it where six pencils go on one side and six on the other and the wrapper goes around it. The assortment boxes don't take skeletons, the cheaper pencils do. He had to know the details of the productions of pencils to determine how many skeletons were used, just like he did the wrappers. The next item that required figures is "lead deliveries." We had two other places where we get materials from, slat mills at Oakland City and lead mills at Bell and Decatur street. Mr. Frank kept the pay roll for Bell Street, and the lead deliveries for Bell Street. He had to get up for the next item the slats that were cheap and good. Then he had to calculate all this stuff on down. Next on this big sheet we have the number of every pencil manufactured. We only use the numbers that are packed that week. When he gets through he adds the total of the productions for that week of that department and he comes over here and puts it down and multiplies it by the price, the selling price, and besides these items we have pencils that are bad. For instance, we have some of these jobs, if they have plugs in them that are bad, he has to figure the number of plugs and the number of tips that were in his job and put in all his jobs and come over there and put down what his jobs amount to. That requires quite a good deal of calculating. The handwriting on the financial of April 26th is in Mr. Frank's usual and average handwriting. I have been over carefully the calculations in it and it represents accurately the operations of the factory for that week. We did not do any of the work on that sheet on Friday. I think it would take about three hours to go through the calculations and complete that sheet. That was our average time. There is no difference in the handwriting of Mr. Frank in the financial sheet of April 26th, from that of the week previous. It is just the same. The financial sheets are all kept in this book here (Defendant's Ex. "9.") The one ending May 30th, 1912, is in Mr. Frank's handwriting. It was made on the Saturday following that date. None of these financial reports could be made in less time than two hours and a half. All these financial sheets beginning with May 30th, 1912, down to date are all in Mr. Frank's handwriting. They were all done on Saturday afternoons. From May 30th, 1912, up to date, Mr. Frank did not miss making a single financial sheet on Saturday afternoon. These are the original financial sheets (Defendant's Ex. "9.") They are kept in our safe at the factory. This little cash book (Defendant's Ex. "10") shows the petty cash checks we receive and what we spend it for, little items like kerosene, things like that. The week of April 26th, we used $56.53 of the $96.48 we had, leaving $40.00 on hand. The next week we had left on hand $34.54. That is what is marked to balance, but that does not always mean that we have that much money on hand. It means that we have accounted for it. We may have lent it out, in advances to men. We put tickets in the cash drawer when we do that and we

count it as actual cash. On that Saturday, we couldn't have over $30 or $35 in the drawer. Yes, I acquainted Joel Hunter, the accountant, with all the data that goes in the financial sheet and explained it to him in detail, and also Mr. Bidwell. I gave them all the data necessary to make up the sheet. The sheet here headed "Comparison 1912-1913" (Defendant's Ex. "11") is made up by Mr. Frank to show the difference between one week of this year and the same week of last year and in making that up he has to take the financial sheet that he made this year and turn to the financial sheet that he made last year for the same week and compare them. This is the comparison sheet he made on Saturday. It is dated April 24th, 1913. (Defendant's Ex. "11.") The requisition and house order book (Defendant's Ex. "12") also show Mr. Frank's handwriting on April 26th. Also the last two lines of these pencil sheets (Defendant's Ex. "7") are in Mr. Frank's handwriting. I made up the pencil sheets through Wednesday, but he had to make it up after Thursday. He had to put in all the items from the packing room for Thursday, enter them under the numbers on these other sheets and then add every item for the whole week. Mr. Frank had to fill in April 24th on all three papers and then get in all those totals in on that. All of the last two lines are in his handwriting. He added up all this report for Thursday. He went through the report to figure them up, that was usually my work. It would take him about fifteen, twenty or twenty-five minutes. The house order book shows what day an order is received, the firm it is received from, where their place of business and what date it is shipped. As to what work is in this house order book (Defendant's Ex. 12) that Mr. Frank did on Saturday, there is work in there in Mr. Frank's handwriting that wasn't in there when I left the night of April 25th. Beginning with item 7187 on page 56, "Received from F. W. Woolworth, store 57, St. Joseph, Mo., came in on the 16th, 17th, to be shipped at once." That is in Mr. Frank's handwriting, he entered that order. He would have to have that order before him before he could enter in that book. The next item he entered was "House order 7188, F. W. Woolworth, Store 68, Terre Haute, Ind." That was to be filled at once. He would send an acknowledgment card for every order we received. If the order wasn't understood, he would write. The next item he entered was "House order 7189, Woolworth Store 53, Logansport, Ind., to be shipped at once, received on 4-26-13." He figured that order out and entered it. The next order is "House order 7190, store 585 DeKalb, Ill., received 4-26-13, ship at once." The next order is "House order 7191, store 25, Wilkesbarre, Pa., received 4-26-13, ship at once." Next order "House order, 7192, store 212, Saratoga Springs, N. Y., received 4-26-13 to be shipped at once." The next order is 7193, send by mail to United Service, Sioux 5 and 10 cent store, Sioux, Mich., received 4-26-13, to be shipped August 1st." Next order is "House order 7194, Dubuque, Iowa, 4-26-13, at once." Next is "House order 7195, Montag Brothers, Atlanta, Ga., received 4-26-13, to be shipped at once." Next is House order 7196, John Leellie, to John Magnus Company, Chicago, Ill., 4-26-13, at once." Next is "House order 7197, R. E. Kendall Company, Cin-

cinnati, Ohio, received 4-26-13, ship at once.'' All of these eleven orders are in Mr. Frank's handwriting and he entered them that day. That is the regular book that we keep those orders in (Defendant's Exhibit 12). I have looked at the original orders and compared them with Mr. Frank's entry in the book and they are correct. I have here the original orders from which Mr. Frank made his entries, with the exception of one, which I can't find. They were in Mr. Dorsey's possession for some time. These are the eleven original orders (Defendant's Exhibits 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24). After Frank entered the orders in the house order book, he transcribed them to these requisition sheets. In other words, in each order that he receives, he enters the order in the book, then makes out one of these requisition sheets and then makes the acknowledgment of the order to the party ordering the goods. All of these eleven requisition shets (Defendant's Exhibits 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35), are in Mr. Frank's handwriting and are O. K.'d by me when I check it, which means that we ship the goods. All of the goods called for by these orders have been shipped out by me after being O. K.'d character for truth and veracity. It is bad. I would not believe him on oath. The paper that those notes found by the body were written on can be found all over the plant. They get swept to the basement in the trash. I heard the telephone conversation between Mr. Frank and Mr. Ursenbach about the ball game. I heard Mr. Frank say, ''Yes, Charles, I will go if I can.'' Sitting at Mr. Frank's desk in the inner office you can see about half of the dial of clock No. 2. You can not see the steps leading down to the first floor. If the safe door is open in the center office you can't see anything at all. It would have to be a pretty tall man to see over it. It would be impossible for a girl of Monteen Stover's height to see over it. The safe door is always wide open while we are in the factory. I went through the safe Monday, Tuesday and Wednesday. I didn't find any mesh bag or pocketbook. I was with Mr. Frank constantly while he was at the factory on the Tuesday morning after the murder. He did not speak to the negro Conley that day. Monday we tried to open up the factory, but everybody was so excited that we couldn't with the exception of the order of R. E. Kendall and Company, 7197, (Defendant's Exhibit 24), which was cancelled by letter. None of these orders were at the pencil factory when I left there Friday night, and they were there when I got back on Monday. The work of looking over the orders and entering them in the order book and making out the requisition has nothing to do with making out the financial sheet. It is entirely independent of it. The financial sheet shows the factory's operation from Friday morning, through Thursday night. These orders go into the next week's business. I saw Mr. Frank on Sunday after the murder. There was no scratch, mark or bruise on him. Mr. Frank is a man of extreme temperament. If anything went wrong about the factory, he would go all to pieces and get nervous. It was not unusual for Mr. Frank to get nervous. When a young child was run over by a street car, he came back as pale as death, and I had to give him a dose of ammonia. He was no good for the rest of the day. I know Jim Conley's

do any work. The girls were standing around, crying. We had to suspend. As I went out of the shipping room that morning, I saw Conley standing in the back of the room. I said, "What are you doing here?" He says: "I am scared to go out, I would give a million dollars if I was a white man." It is very dark on the ground floor around the elevator. I have never known the doors to Mr. Frank's inner or outer office to be locked. Even if they were you can see right through them, part of the door being glass. Anybody could look through them and see what is going on in the office. The door to the elevator can be easily lifted by anyone and anyone can be pushed down the elevator shaft. The motor to the elevator is on the office floor, and the wheels are on the top floor. When you start up, there is a noise. You can always hear the jerk when the rope is pulled, and when it stops there is a noise and when it hits the basement floor, there is a thud. The motor also makes a distinct humming noise. The motor box is not kept locked. I have gotten after Jim Conley many times about not registering. We have docked him for not doing it. I have noticed blood spots on the floors of the factory. Whenever one gets his finger hurt, he has to come to the offiec to get it tied up. People have gotten hurt in the metal room, and in coming to the office would walk by the ladies' closet, through those doors. The spots that Barrett pointed out in the regular path where a man would come to the office if he were injured. There were four or five strands of hair that Barrett discovered. I saw them. Could not possibly tell what color it was. The metal room floor has not been washed since I have been there.

CROSS EXAMINATION.

I knew on Monday that Mrs. White claimed she saw a negro there. Frank telephoned me three or four times on Monday to get the Pinkerton's. He was at home. I was at the factory. When the detectives got to the factory Frank was at the station house. He was there nearly all morning. He phoned me at first about twelve o'clock, and then again about twelve-thirty. He wanted me to see if we could not in justice to all the employees try to sift this thing down, and he suggested getting the Pinkertons. He phoned again near one o'clock. Mr. Frank spoke about his nervousness. He didn't talk a great deal about it. He may have spoken to me once or twice about it. I think one time he explained to me how terrible the girl looked and the other time that they rushed him to the undertaker's in a dark room and threw on the light. He said he was awfully shaken up. As to what Mr. Frank said when they telephoned him about the murder, he asked what was the matter, had there been a fire at the factory. Another reason he was nervous he said, he hadn't had any breakfast, he wanted a cup of coffee. We had been without a stenographer quite a while. The work had accumulated to some extent. As to what work there was in the factory for Mr. Frank to do Saturday except the financial sheet, he entered the orders, made requisitions. I do not know that Miss Hall entered all those orders. I know she took dictation. That is all I know about it. The first time I saw those orders entered on the order

book was on Monday or Tuesday. It takes about an hour or an hour and a quarter to enter those orders on the book. It is true that I testified before the coroner that it wouldn't take over half an hour to enter the orders. It takes an hour and a half to do all of the work of transcribing them that you pointed out to me. Asknowledgments are usually made by the person who transcribes the orders and enters them on the requisition. If Mr. Frank didn't make acknowledgments, that would not make a difference of over five or ten minutes in time. I said it would take an hour and a half to do all of the work lying on the table, requisition and all, transcribe them and acknowledge them. As to what that work was, beginning with order 7187 on the 26th, there are eleven orders, going down through 7197. None of that was done on Friday, because the orders weren't there when I left Friday night. I left Friday night at half past six. I didn't go to the factory on Saturday morning. I have never timed Mr. Frank entering those orders. I said I guessed it would take him thirty minutes to actually enter them. After entering them he must transcribe and acknowledge them. The initials "H. H." on these orders (Defendant's Exhibits 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24), means Miss Hattie Hall, the stenographer. "H. G. S." on these requisitions (Defendant's xhibits 25 to 35 inclusive), are my initials, mean that I checked the order and O. K.'d it and it's gone. Miss Hattie Hall wrote the letters acknowledging the orders. I know that because the latter has the letters "H. H." dictated by ". We haven't any regular way of acknowledging. Some orders are acknowledged before they are ever touched. There is no certain first step. It is not necessary that they should be entered in the book first. One step doesn't hinge on the other. If Hattie Hall had anything to do with writing these things, it was done Saturday morning. The orders must also be transcribed from the order to the requisition sheet. The average sheet was the only sheet that had not been worked on Friday that I found had been worked on when I got back there. It had not been touched on Friday, and I had not given any data for it when I left. The data I had to get up for it was the flat production, the packing room production, the tips, I get that from this packing room report (Defendant's Exhibit 4-A). The handwriting is that of Miss Eula May Flowers, the forelady. When I received that report, I had to accumulate all the data, penciled it, and transferred it to the pencil sheets here (Defendant's Exhibit 7). These three sheets are the only thing connected with the packing room for the week of April 24. I wrote the figures Wednesday night and Mr. Frank did it Thursday. Mr. Frank had to add two lines to the sheet. He could get those from Miss Flowers' report just as well as I could. The figures on the bottom of the page are his. All the writing on this sheet is mine except the last two lines at the bottom, which are his (Defendant's Exhibit 7). On that sheet, yes, there are just eleven figures, but you got three sheets to get it from, one line on all three sheets and the total, making six lines altogether. It is not easy to say how long that would take. It is merely looking at those things and putting them down, you have got to go over it, and get the different classes of goods that we pack and take

it and put it under the head of specialty, that is the head of the classes of goods manufactured that week. You must have the slat record. I haven't got the slat record here. It certainly is different from this. It comes from the cedar mill. The item on the financial sheet (Defendant's Exhibit 2) that he got from the slat record is the item under "Material Cost"—"Slats 2719½ gross at 22c." That is all he would have to get on the financial sheet with reference to slats. That wouldn't take any more time than taking these daily reports and putting them on here. He also had to get the lead deliveries from the lead plant and the tip deliveries from the tip plant. Our numbers run on the sheet like this, 10X, 20X, etc. Our two 10X pencils, for instance, manufactured for the Cadilac Motor Company, if they want a pencil with their name on it and our's not on it, we call it the 10X special, of 5 10X Cadilac special. We have to go down through each number that has been sold and get the make of each style of pencil and they have to go in the right square, covering the right shape and the right number of gross. If he didn't he wouldn't balance with his packing reports and the whole sheet would be incorrect. These papers here and the tip plant and the slat record and the lead record and the packing are all the papers I know were not worked on Friday night and which I found at the factory when I got there Monday. Frank needs those four reports to make up his financial. Doing that work and entering those eleven orders is all that I know Frank had to do on April 26th. I didn't see them done. I say I found them done the next week. It was certainly done between Friday night and Monday morning. I didn't see the financial sheet on Monday. The slat record comes from slat mills and tip record from the tip plant. I compiled the data at our plant. If Frank had started to work at eight-thirty, I think he could have finished a greater part of this work by ten-thirty, if he had worked continuously. It is true that he could have done all of the work in two hours and a half. I didn't hear him say that he could have done it in an hour and a half. The work that I have just been over and the entries in the book and the letters that he dictated to the stenographer is the sum total of all the work that I have seen done on the books in the office on April 26th. Mr. Frank and I were not paid off on the 25th, or 26th. In addition to the work I have gone over, Mr. Frank had to balance the cash. This is his writing in the cash book. (Defendant's Exhibit 40) and all those figures were made that day. It doesn't mean that 15c worth of kerosene was purchased that day, because the entry is not dated that day, it means that the figures were put on there that day, for the reason that the week is not closed until that is added to the cash. The date this kerosene was purchased, April 21st, is found in the little receipt book (Defendant's Exhibit 10). It was purchased on the 21st, as shown in the receipt book, but was not entered in the cash book until the 26th. We don't put our items in the cash book the minute they are purchased. We put the total of each item under sub-heads. If we pay drayage $2.00 on Tuesday, $2.00 on Thursday and $2.00 on Saturday, there would not be three entries in the cash book, but they would be under one head "Drayage $6.00," and everything

else the same way. When we advance a man money it is put down on a slip and entered in an envelope, called "Loan." We don't take a receipt for it. I can show that Frank gave $2.00 to Arthur White and it was deducted. I made the entry in the time book the next week and deducted it the following Saturday. We don't enter it on the cash book. This average sheet (Defendant's Exhibit 5) is all in Mr. Frank's handwriting. It begins from January 10, 1911. As a rule Mr. Frank put on the financial sheet the average to show the General Manager how the average of our orders have run. I don't see it on the financial for that week. It is no rule. I said he usually does it. It doesn't affect the financial sheet however, if it is not on there. It doesn't keep the financial sheet from being completed. I say he did work on the average sheet on Saturday because those orders came in that day. I know they could not have been entered the Thursday before and they were entered in fact Saturday because I had gone over the orders and find that they average the same thing that he has got on the average sheet. None of these orders came in the factory before Saturday morning, because they were not there Friday night when I left. I am sure of that. I have never known Mr. Frank to leave there on a Saturday with the financial sheet not ready. He would not go to a ball game unless he had his work up. I heard him say on Friday afternoon that he was going to try to go to the ball game. We left there Friday night together. He didn't go back that night. I said at the coroner's inquest that if the data had been gotten up for him it would take him an hour and a half to two hours. I don't remember saying that it would take only two hours and a half for both the data and the financial sheet. I meant two hours and a half without the data. I say it would have taken from two and a half hours to three hours to have gotten it all up. I am not an expert accountant, and I base my opinion on the reason that I have gone back at the same time and have sat down with him while he was working and seen him when he was finished. He couldn't hurry over the work, and get it correct. I think he could get it up quicker than I could. I am positive that I said at the Coroner's inquest that he could get it up a half an hour quicker than I. I may have said so, that was only an estimate. I have never made up a financial sheet. My estimate of the time referred to Frank doing it. I couldn't tell how long it would take to balance that cash. I said at the Coroner's inquest between an hour and an hour and a half. It all depends on whether you balance or not. We keep our little change in nickles, dimes, quarters and halves, and you have to take the money out of the sack, stack it up and count it. As to how I remember where I was last Thanksgiving Day, because I was going to Athens to see the Georgia foot-ball game. I remember it snowed and I didn't go. I told Conley and the office boy to come back and be at the factory. The second reason I remember is because of the B'nai B'rith affair which Mr. Frank went to and I helped him carry his packages to the car. As to my remembering every Saturday that I have been there for six months previous, I have never lost a day from the factory since I have been there with the exception of my vacation. I was with Mr. Frank until half past twelve on

Thanksgiving Day, when I left him at the corner of Mitchell and Alabama, where he caught a Washington Street car. I don't know what he did that afternoon. I do know that I remained at the factory every Saturday afternoon since I have been there because I have not lost a day. I paid off Friday, April 25th. I remember Helen Ferguson coming to the window and I paid her. I can tell you the names of many more that I paid off that afternoon. (Witness gives names of eight or ten more he claims to have paid off.) Mr. Frank and Mr. Holloway were there at the time. It is very dark underneath the chute near the Clarke Woodenware Company place, and we kept shellac in front of the door there. It is the door to the left. We did not have boxes piled around there after this murder occurred. If a body had been shot down there, it would have been 20 or 25 feet from that door. We go down there every day or so to get shellac; you don't have to pass by the opening under this chute. I never mentioned any indication that anybody had walked around the chute. I saw the place in the metal department on the second floor where they said there was blood. It looked like a small spot covered with white. It looked like blood from a finger being cut. It looked like haskoline had been splashed all over the metal department. There was nothing different about that particular spot from any others, except that it was red. It looked like it had been swept over. As to those steps by the chute I don't know that they were nailed up immediately after the murder. Three days after I came up those steps. I don't remember whether it was before or after the insurance people made us clean up. I know I was at the factory on Saturdays and holidays after twelve o'clock. I change the clock at times if I find that it is not right. We don't run it five minutes ahead of time. Every time I look at it it is on time. We do not have to regulate it often. We regulate it by the whistle in back of us every day at twelve o'clock. We don't set it every time we hear the whistle though. We have had unreliable people at the factory. We give them a trial. I knew that Conley was unreliable a good while ago. Found it out the first time I ever spoke to him. When we found that we couldn't trust him we took him off of the elevator. Mr. Darley and I did it. We didn't take it up with Frank. Girls in the factory have told me about his worthlessness. Miss Carson and others have told me he tried to borrow money and slip off. She complained to me several times about it, that he was trifling and didn't clean up her department, that he didn't move the pencils, that he sprinkled on top of the pencils, that he tried to borrow money. The negroes would come to me and told me that he wouldn't pay his debts and slip off. I don't know whether I ever took these complaints to Mr. Frank or not. I was not under Mr. Frank. I had authority to fire him, but I didn't do it, because in a factory like that it is hard to get a negro who knows something about it. He was in the chain-gang two or three times, once he worked on Forsyth Street in front of the building, and then women would come up to me and try to get money to get him out, two or three times. That has happened since he has been working at the factory. I know that he has been in the chain-gang once, when I saw him working in front of the

factory. The times was when women came up there and tried to get money to get him out. I have seen these books scattered all over the factory, whole books and parts of books. I have seen them since this murder. Both before and after. I have seen sheets sometimes. I knew that Jim could write. I have given him and the other negroes tablets like this (State's Exhibit H). They are kept everywhere in the factory. They would go down in the basement and write. I did not talk to Frank on Monday or Tuesday about Jim Conley's peculiar conduct after the murder. I talked to Darley.

RE-DIRECT EXAMINATION.

When I stated that it took two and a half hours to three hours to make up the financial sheet, I meant without any interruptions. We have quite a few interruptions on Saturdays, salesmen drop in, draymen and people come in, for their envelopes after we have paid off. When I said to Mr. Dorsey that he might do the work from 8:30 to 10:30, I had reference purely to the financial sheet. Making the entries in the house order book, requisitions and dictating the correspondence, I did not include. The correspondence and the entries in the requisition book is usually done in the morning. We usually go to Montag Brothers about 8:30, get the mail, come right back, acknowledge the orders and answer the correspondence. I have never known Mr. Frank to take up the financial sheet before the afternoon. After he finished his financial, Mr. Frank would usually make two copies of the result of it, and send one of them to his uncle, who is a stockholder and the other to Mr. Pappenheimer, who is the president. My estimate of the time was two and a half hours for the financial sheet, and one and a half hours for the other work. Mr. Dorsey's picture (State's Exhibit A) shows nothing in the Clarke Woodenware Company except the front of it. It has left out every scuttle hole, and toilet and everything there. It fails to show the door that enters into the partition to the basement. Hasn't got either one of these two front doors. Mr. Frank's wife frequently did some shorthand work for him on Saturday afternoons. I have seen her there often when we were behind in our work. The haskoline did not hide the red spots at all. You couldn't tell whether it was on top or on bottom of the red. It is nothing unusual for the white stuff to be spilled all over the metal room. I did not know that Conley was denying that he could write in the station house, for quite a while. The Pinkerton men came over to the factory to find out if he could. I looked all over and found a card where he had signed a signature for a jeweler for a watch. The detectives found the information by coming to the factory. The negroes always ate in the basement. Conley was familiar with the basement. Mr. Dorsey subpoenaed me to his office, he subpoenaed some of the others. I think he phoned to me. Empty sacks are usually moved a few hours after they are taken off the cotton.

RE-CROSS EXAMINATION.

I had no objection to coming to your (Mr. Dorsey's) office. I offered to assist you in any way I could. No, it was not Mr. Frank's custom to make an engagement Friday for Saturday evening and then go off and leave the financial sheet untouched. The pencil factory is three or four blocks from Montag's. Some of them are short blocks. Guess it takes three to five minutes to go over there. I have never timed myself. The first time on Monday I observed the peculiar behavior of Conley was between half past seven or eight o'clock, he was sitting in dressing room on a box. It was after that I went with Detective Starnes to try to locate Gantt and arrest him. Frank never went to baseball games or matinees on Saturday. The only pictures that are hanging on the walls of Mr. Frank's office is a calendar that Truitt and Sons give away. No, I don't know whether the detectives found out elsewhere that Conley could write. I gave them the information when they came to the factory. It was on Monday morning that I saw the haskoline and the red spots. If the blinds had been closed it would have been some darker, not a big difference.

RE-DIRECT EXAMINATION.

I have never seen Mr. Frank talk to Mary Phagan.

JOEL C. HUNTER, Sworn for the Defendant.

I am a public accountant, engaged in the profession ten or fifteen years. I have examined the financial sheet said to be made by Leo M. Frank. I examined a copy and then checked it against the original. In order to find out how long it would take a person to make out these reports, I went through the calculations. I did not make out the sheets. I verified the extensions and calculations on the financial sheet (Defendant's Exhibit 2). I found them correct within a decimal. There is one item a decimal is incorrect. That was immaterial, merely an error in the calculation. In order to find out how long it would take that report to be made up, I made an examination, line by line, item for item. I figured an approximate time it would take to make the various entries if they had all of the data immediately available, and how long if it was not immediately available. I put these down in two separate columns and then struck an average. In my opinion the quickest possible time to make out this report, balance the cash, make out the comparative statements and the copies of which they furnished me, I figured 150 minutes. I don't think that could have been done in that time except by someone having experience in it and knowing how to set up these facts and figures. This would not allow for checking the figures. In my opinion, it would take from three to three and a half hours to make out this report, balance the cash, make out the two copies and the comparison of 1912 and 1913. (Witness then details time it would take in his opinion for each particular item that has been calculated

and entered and how he figured it.) In my opinion it would take a pretty swift man three and a half hours.

CROSS EXAMINATION.

A man's familiarity with a special class of work will aid materially in making it up. If he had had to get up the information which was furnished me it would take him a good deal longer than it did me, for the information was already furnished me. I have allowed for his experience and familiarity with the business, in the way of saving time, in making my estimate. I have tried to make my figures sufficiently conservative to make allowance for a man in charge of the work. I have tried to show it done in the quickest possible time. I think it will be wonderful to make it in less than that. I think a man who could make it out and verify it as he went along, it would take the whole afternoon.

C. E. POLLARD, Sworn for the Defendant.

I am an expert accountant. I was called into this matter for the purpose of seeing the length of time it would take to gather these figures and get the result on the financial sheet and other papers that were furnished me. I studied each sheet and when I was sure of what the result would be I would lay that sheet down and make a copy of it. I would take time myself for each operation. There was a discrepancy of one and one-half gross on the factory records in the figures, out of 2765½ gross, (Def's. ex. 2). It was an immaterial error. The minimum time that I could do that work in I found to be three hours and 11 minutes, that was as quick as I could do it. If I had been interrupted in my work of course it would have taken me longer. I have been an expert accountant for 15 or 16 years. The mistake that I found occurred on the Saturday of the week before. It was not Frank's mistake, but somebody else compiled the figures for that week. There is another trifling mistake under the head of "value of products, pencils packed" that did not figure the same as mine. Those are the only two mistakes I found on the whole financial sheet,—a mistake of 50c. and a gross and a half of pencils.

CROSS EXAMINATION.

In making my experiment of how long it would take, I was furnished with all my data. I didn't have to get up any of the data. I am considered rapid in my work. The mistake of one and a half gross occurred on April 18th and 19th. I don't know whose mistake it was. Anybody can work on his books with a great deal more ease than an outsider can. The mistake I mentioned did not make the other calculations wrong, the other calculations were all right. The mistake grew out of just one multiplication. In multiplying 791 gross at 50.1 cents, Frank made the total $396.75, instead of $396.29.

RE-DIRECT EXAMINATION.

In making out this sheet Mr. Frank had to make about 40 multiplications, 160 additions. The mistake is not a serious one.

HERBERT G. SCHIFF, Recalled for cross examination.

The books show that $4 was loaned to Arthur White. I made the entry in the book. The $2.00 was for what Mr. Frank loaned him that day and $2.00 loaned him the middle of next week. As to where the entry is that Mr. Frank lent Arthur White $2.00 these slips are not kept after we take it off. After the payroll is made we destroy those. The books show that this $2 was added to the other $2. There was approximately $1100.00 paid off on Friday on the pay roll. There was about 5 or 6 envelopes, left over not called for. The numbers go on different places on the envelopes. The clocks we have now are the same we had when Gantt was there. Whenever there was any trouble we phoned for a man to look after the clock.

RE-DIRECT EXAMINATION.

Whenever accidents would happen in the factory we would have the person come to the office, to the outer office, where we would bandage their hands with the few medical supplies we keep there. Then we make a report to the insurance company as to the cause of the accident and any witnesses. We always found the clocks kept good time.

MISS HATTIE HALL, Sworn for the Defendant.

I am a stenographer for the National Pencil Company. I do most of the work in the office of Montag Bros. Whenever it is necessary I go down to the National Pencil factory and do work there. I saw Mr. Frank about ten o'clock of the morning of April 26th, at Montag Bros., when he came over there that morning. He came in Mr. Sig Montag's office, where I was taking dictation and I told him that I didn't know whether I would be able to go over there that morning or not, as Mr. Montag was giving me letters and Mr. Frank said: "Well, come if you possibly can." He had previously asked me over the telephone to come over to the factory.

That was about half an hour before he came over to Montag Bros. I had called him up to get a duplicate bill of lading and in the course of the conversation, I asked him if he would need me over there that morning, on account of his having an inexperienced stenographer over there, I had been going over there all during the month of April on that account. He said "Please come over, I have some work for you to do." It was 20 or 30 minutes after that that he came over to Montag's. When he came in I told him that I was afraid I couldn't go over on account of the work I had to do at Montags, but Mr. Montag finished his dictation in a few minutes, and I then told Mr.

Frank that I would have time to come over there and that I would be over there later. I started over to the factory between 10:30 and 11. I went alone. It takes about five minutes to get over there and I reached there before eleven o'clock. I don't know whether Mr. Frank was there when I got there. I waited in the outer office a few minutes before I started to work. I went in the inner office to get the orders to acknowledge for Mr. Frank. I acknowledged them for Mr. Frank. I acknowledged them in the outer office. I do the typewriting in the outer office. These are the 11 orders (Defendant's Exhibit 11 to 24, inclusive), that Mr. Frank handed me and I acknowledged. You notice my initials on them "H. H." I put on there "Acknowledged, April 26, by "H. H." Mr. Frank got the orders when he went over to Montag Bros. and brought them back with him. The acknowledgments are the first step, in that case. Several people came in while we were working, two men, one whose son worked there came in and spoke to Mr. Frank about the boy's being in some trouble in the police court. They went into the inner office to talk to him and he came out to the outer office with them. Miss Corinthia Hall and Mrs. White also came in there in Mr. Frank's office and I talked with him. During this time Mr. Frank was not doing any work on the financial sheet. I find in this book (Defendant's exhibit 12) all of the eleven orders which I acknowledged that morning, one order seems to be missing, I just find a requisition sheet for that. I did not enter those orders on the book. It looks like Mr. Frank's handwriting. I did not write any of these requisition sheets. The entering of the requisition was done after I acknowledged the orders, because when they enter them the house order number is put on them when they are put in the book and there was no house orders on them when I acknowledged them. Therefore, it had to be done afterwards. The requisition sheets are not made out until they are entered on the house order book and then acknowledged and then the requisition sheets are made. These eight letters (Defendant's Exhibit 8) were dictated to me Saturday morning by Mr. Frank and I typewrote them there in the outer office. After finishing them I took them in the inner office to him. I did not file these carbon copies, but left them with Mr. Frank. Throughout the time that I was there that morning with Mr. Frank he did no work on the financial sheet. As I was ready to leave the noon whistle was blowing. At that time I was in the outer office. I went downstairs, and remembered that I had left my umbrella, went back, got my umbrella and started out. When I pushed the clock it was 2 minutes past 12. I did not see any little girl come along about that time.

CROSS EXAMINATION.

The stenographer the pencil company had was inexperienced and did only about one-third of the work and that's the reason I had to do the other. I was getting $12.50 a week on April 26. I am now getting $15. When I was first employed they said they would give me a raise on August 1st. I insisted that I be raised on July 1st, but they wouldn't give it until August 1st. It

was I that called Mr. Frank over the telephone. I did not insist on going over there. He insisted on my coming. The acknowledgments consisted of stamping the orders with a number, putting the dates down there and acknowledging them by post cards sent to the people. Mr. Frank did not leave Montag's with me. He left before I did. He didn't know how long it was going to take me to write those letters. Mr. Montag hadn't finished dictating to me when I talked to him, so he did not wait. While I was there in the office, two men and three women came in. The ladies came after the office boy had left and he said he left about 11:30. The men were in the inner office with him about five or ten minutes. I was in the outer office. I started to work typewriting about two minutes after he finished dictating the letters. I don't know how long it took me to write them, I am not a very rapid typist. During the time I was writing, Mr. Frank was in the inside office, except when he came out to talk to Mrs. White and came to the door with those men. After typing them, I took them into him to sign. He folded the letters and put them in the envelopes himself. He did not ask me to stay until he looked over the letters. As to what else there was to be done that day, from the looks of the papers on his desk he had a good many to dispose of. He went through them as he was dictating to me, and there were a good many that he had to get rid of. I was over at the factory the previous Saturday morning. He was not working on the financial sheet. I got up for him the number of gross deliveries and the price and made an average charge of how much each gross would cost. That was a part of the data necessary for the financial sheet. When I testified before the Coroner, I thought that was the financial sheet itself, because I had never seen a financial sheet before. I know now that it was the average sheet. I transferred some of those things to the average sheet. I never did see the financial sheet. Mr. Montag gets it. I did not help Mr. Frank on the financial sheet the previous Saturday. It was the average sheet I helped him on. I discovered my error as to this being the average sheet and not the financial sheet soon after the coroner's inquest. I know that Mr. Frank was not working on the financial sheet on the Saturday morning previous to the 26th. He was busy with something else altogether. He simply gave me that data to work on. I did not identify the financial sheet at the Coroner's inquest, I didn't even know it. I was not in Mr. Frank's inner office on April 26, excepting when I got the orders from him. When I told the Coroner's jury, if I did tell them that, I didn't remember being in his inner office at all, I have never been in a court room before. I was so rattled that I wasn't exactly myself. Mr. Frank told me that morning he wished Mr. Schiff would come over and finish the data, that he couldn't fix the financial sheet until Mr. Schiff got up the data, and he had Alonzo Mann telephone him to come over there to do it, but Mr. Schiff didn't come while I was there. I said at the coroner's inquest that I didn't see Mr. Frank working on any of these books that day, that I was in the outer office and he was in the inner office. There wasn't any such looking sheet as the financial on his

desk. When I was in there he was at work on a pile of letters and things like that.

RE-DIRECT EXAMINATION.

When I was first employed at the factory Mr. Nix said to me, "I will give $12.50 a week, when the busy season opens up, about the first of August, I will raise it to $15. About the middle of June, I asked him to raise it on the first of July, but he said, "We will wait until August 1st." At the time I testified at the coroner's inquest, I had never seen any of the financial sheets. I did not write a figure on that financial sheet. At the inquest I thought the average sheet was the financial sheet. I told Mr. Frank that I couldn't stay longer than 12 o'clock, and he asked me to stay all the afternoon and help him, that he was busy. I also heard him ask Harry Gottheimer to come over in the afternoon.

MISS CORINTHIA HALL, Sworn for the Defendant.

I work in the finishing up department of the pencil factory. I am a forelady. I was at the factory on April 26, I got there about 25 minutes to twelve. I had to come to town on the East Lake car and got to town about 11:30 and it took me about five minutes to reach the factory. Mrs. Emma Clarke Freeman was with me. She had spent the night with me. We went there after her coat and to telephone, to call up Mrs. Freeman's husband. We went up to the fourth floor to get the coat and then came down and went in Mr. Frank's office. It was about 15 minutes to 12 when we left the factory. Mr. Frank was writing when we came in his office. His stenographer was in the outer office. Mrs. Freeman said she would like to use the telephone. She used the telephone and then we went out. During the ten minutes we were there he was talking to two men between the outer office and the clock. He was dismissing those two men when we came. Mrs. White and the stenographer were in the office then also. As we were going up the steps, Mr. Frank called to Mrs. Freeman to tell Arthur White to come down that his wife wanted to see him. On the fourth floor we saw May Barrett, Arthur White and Harry Denham. When we left the factory, the following people were still there: Arthur White, Mrs. White, May Barrett, her daughter, Harry Denham, the stenographer and Mr. Frank.

CROSS EXAMINATION.

We met Mr. Holloway between Broad and Forsyth Streets as he came out of the factory and as we went in. We met Lemmie Quinn afterwards at the Greek Cafe. Don't know what time it was when we came out, we went to corner of Alabama and Forsyth to use a telephone. It took us about five minutes to go there and come back to Greek Cafe. We got a cup of coffee and sandwich and were getting the change when Quinn came in.

MRS. EMMA CLARKE FREEMAN, Sworn for the Defendant.

I married on April 25th. I worked at the pencil factory before that, at the time I was married. I was paid off on April 25 by Mr. Schiff. On the 26th I reached the factory with Miss Hall about 25 minutes to 12. I saw Mr. Frank at his office. He was talking to two men when we went in. Mrs. White and Mr. Frank's stenographer were also in the office. Mr. Frank gave us permission to go up on the fourth floor to get my coat. While we were going up the steps Mr. Frank called to me to tell Mr. White that Mrs. White wanted him. We went on up, I got my coat and came down, and asked permission of Mr. Frank to use the telephone in his office. I used the telephone. I spoke to Mrs. White a few minutes and then we left, which was about a quarter to twelve. I remember looking at the clock. When we left, there was in the building, May Barrett, the stenographer, May Barrett's daughter, Arthur White, his wife, Harry Denham and Mr. Frank. We met Lemmie Quinn afterwards in a cafe. He said he had just been up to see Mr. Frank. (Cross examination waived.)

MISS EULA MAY FLOWERS, Sworn for the Defendant.

I did not work at the factory on Saturday, April 26th. I worked there Friday, the 25th, in the packing department. Mr. Schiff got from me the data for the financial sheet on Friday night at ten minutes to six. It was the production for the entire week from my department. It covers all the different classes of work where the goods were finished.

CROSS EXAMINATION.

I always turn those reports in Friday night or early Saturday morning. They don't touch Friday's work.

MISS MAGNOLIA KENNEDY, Sworn for the Defendant.

I have been working for the pencil factory for about four years, in the metal department. I drew my pay on Friday, April 25, from Mr. Schiff at the pay window. Helen Ferguson was there when I went up there. I was behind her and had my hand on her shoulder. Mr. Frank was not there, Mr. Schiff gave Helen Ferguson her pay envelope. Helen Ferguson did not ask Mr. Schiff for Mary Phagan's money. I came out right behind Helen Ferguson. We waited for Grace Hicks and then went down stairs. Helen didn't say anything about Mr. Frank at all. We went downstairs about five minutes to six. We saw Helen Ferguson start up Forsyth Street.

CROSS EXAMINATION.

On Monday, April 28, Mr. Barrett called my attention to the hair which he found on the machine. It looked like Mary's hair. My machine was right

next to Mary's. There is a good deal of water over there by Mr. Quinn's room. Mary's hair was a light brown, kind of sandy color. You could plainly see the dark spots and white spot over it ten or twelve feet away. Helen and Mary were the best of friends and were neighbors. Helen made mention that Mary was not there when we were paid off. I have never noticed any spots around the metal room. That's the first time I had ever seen anything like that.

RE-DIRECT EXAMINATION.

I have never looked for spots before. It's a dirty floor, full of oil dirt. I don't know whose hair that was. Helen did not ask Mr. Schiff for Mary's money. She did not have any business going to Mr. Frank when Mr. Schiff was there paying off. She did not go in and ask Mr. Frank for Mary's money. I left with her. I went one way and she went another.

RE-CROSS EXAMINATION.

Mr. Frank paid off sometimes. If there is any trouble about the amount of our money, we would go to anybody that was in the office. Mr. Frank was not paying off that day.

WADE CAMPBELL, Sworn for the Defendant.

I have been working for the pencil factory for about a year and a half. I had a conversation with my sister, Mrs. Arthur White, on Monday, April 28th. She told me that she had seen a negro sitting at the elevator shaft when she went in the factory at twelve o'clock on Saturday and that she came out at 12:30, she heard low voices, but couldn't see anybody. On April 26, I got to the factory about 9:30. Mr. Frank was in his outer office. He was laughing and joking with people there, and joked with me. He thought I wanted to borrow some money. I stayed about five or ten minutes and left the factory. That was about 9:40. I have never seen Mr. Frank talk to Mary Phagan. On Tuesday after the murder I went up on the fourth floor with Mr. Frank. I did not see the negro Conley talk to him at all that time.

CROSS EXAMINATION.

My sister said she saw the negro when she went in the factory. When she heard the voices coming out, she was coming down the steps from the second floor. I saw the spots where they claim was blood, close to the girls' dressing room on second floor. I couldn't say whether it was blood or not. I deny that I ever said that my sister said she saw the negro on the box when she came out of the factory. He was sitting on a box between the elevator shaft and the staircase. That looks like my signature. I don't know whether it is or not. Yes, I corrected certain statements in that paper.

RE-DIRECT EXAMINATION.

I went to Mr. Dorsey's office because he subpoenaed me. I thought I had to obey it. Mr. Starnes and Mr. Campbell and the stenographer were there. All of them asked me questions. I signed a statement about twenty-one pages long. I have seen Jim Conley reading newspapers up on the fourth floor, twice since the murder. It is not unusual to see spots all over the metal room floor.

RE-CROSS EXAMINATION.

Conley was sitting by the elevator when he was reading those papers, during working hours. The other time he was reading down at the rear end of the building. It was an extra, but I don't know what paper it was. I knew that he could write because I had seen him do it several times, with pen and ink. I don't know whether he was making up his report of boxes, but I have seen him writing. Yes, I have seen spots along the route from the ladies closet to the elevator ever since I have been there. They have red varnish and red paint and such things like that that look like blood. I am sure there are spots all around in the metal room, but I won't say they look like the spots near the ladies' dressing room.

LEMMIE QUINN, Sworn for the Defendant.

I am foreman of the metal department. Barrett pointed out to me where he claimed to have found blood spots on the metal room floor. He asked me whether I thought that he (Barrett) would get the reward if Frank were convicted. He told me that several people told him that he had a good chance to get the reward. He said a fellow told him that he would get $2,700 one time and $4,500 the other time. He mentioned that reward to me on several occasions. The floor of the metal room is very dirty. You could not tell at the alleged blood spots whether they were varnish or oil. We have blood spots quite frequently when people get their hands cut. I remember a man by the name of Gilbert was hurt in that room. He was carried towards the main office by the ladies' dressing room and sent to the hospital. He bled freely. That was about a year ago. About eight months ago a boy cut his hand pretty badly and was carried by the ladies' dressing room to the main office, right over the place where Barrett found the blood spots. His hand was bleeding. About a hundred women work in the factory. Haskoline is scattered all over the floor of the metal room. That floor has never been scrubbed since I have been to the factory. I could not tell what color hair it was Barrett found. There were only a half dozen strands in it. Chief Lanford took it. There is a place in the room where the girls dress their hair by a little gas jet which they use for heating a curling iron. It was about ten feet from the lathe where Barrett claims to have found the hair. If a breeze was blowing from this window from the west it would blow to where the girls were fixing their hair. The last time I saw Mary Phagan before the murder was Monday.

She left about two o'clock. She left about two o'clock because we were out of material and she was laid off for the rest of the week. I have never seen Mr. Frank speak to her. I went to the factory on April 26th, to see Mr. Schiff. He was not there. I often go to the factory on Saturdays and holidays. The street doors were open when I got there. I did not see Mary Phagan, nor Jim Conley, nor Monteen Stover. The doors to Mr. Frank's inner and outer office were open. The time I reached Mr. Frank's office was about 12:20. I saw Mr. Frank on Sunday at Bloomfield's undertaking establishment in the afternoon. He had on a black suit. On Saturday he had on a brown suit. There was no blood spots under the machine where Barrett claims to have found the hair. On Monday Mr. Frank had on a brown suit. There was no blood at the spot where Conley claims the body of the girl was found. It was perfectly dry there, there was no water on the floor.

CROSS EXAMINATION.

I noticed the blood spots at the ladies dressing room on Monday. I did not tell Mr. Payne and Mr. Starnes that I was not in the factory on April 26th. I told nobody that. Mr. Frank is not the first person to whom I told it. He did not tell me to keep quiet about it until he saw his lawyer. I did not tell the officers about it. Mrs. Frank said he remembered my being at the factory, but did not remember the time. At the coroner's inquest I said it was pretty close to 12 o'clock when I got to Wolfsheimer's. I don't think it could have been as early as quarter after twelve when I got to the factory. As to why I did not tell the officers, they could have gotten it if they had asked me. I never mentioned it to Barrett either. I told Chief Lanford on the following Monday that I was at the factory. I told it to Frank on Tuesday. He said he would mention it to his lawyers. I told Frank I didn't like to be brought into it but if it would help him in any way I would do it. As to whether I would have mentioned it or not, was up to Mr. Frank. He afterwards told me that his lawyers advised him to mention it at the coroner's inquest. That was Tuesday afternoon. I told you in the statement I gave you that I could not swear positively as to the time I was at the factory. I said I got to the pool room between 12:20 and 12:30. I had been up in the factory before I met Mrs. Freeman and Miss Hall at the Busy Bee. I was in the office and saw Mr. Frank between 12:20 and 12:25. At the time I made the statement to you that I was there between 12:00 and 12:25 I had reckoned the time down as I have now. The back door at the stairway going up from the office floor to the top floor is fastened with a bar. It is not closed except on pay day. It is true that a man at the office door could easily lift the bar and walk up, but a man could not come down to the office floor from above at all. Anybody could fix that bar in its place in half a minute. I told you in the detective's office that I reckoned the time of my being in the factory from the time I left home and the destination I went to, and I said I could not remember the stop at Wolfsheimer's which took ten or fifteen minutes, and that is why I

reckoned it so positively. I left home I know at about a quarter to twelve. I looked at my watch. It takes twelve or fifteen minutes to walk to the factory. I got to Wolfsheimer's pretty close to 12 o'clock. I was there ten or fifteen minutes.

RE-DIRECT EXAMINATION.

At the time the detectives and Mr. Dorsey talked to me about the murder, I overlooked the fact that I had been to Wolfsheimer's. My wife called my attention to it when I got home. I mentioned this matter to my father and my wife before I ever mentioned it to Mr. Frank. Mr. Frank did not tell me not to mention it to anybody. If a detective had asked me I would have told him what I knew about it. At the Coroner's inquest I said it could have been as early as twenty minutes after 12 that I got to the factory, because I had reckoned my time down from leaving home and the number of steps, and I said it must have been between 12:20 and 12:25.

HARRY DENHAM, sworn for the Defendant.

I work on the fourth floor of the pencil factory. I was paid off Friday, April 25. I came back Saturday to do some work. Mr. Darley asked me to come back. I had to work on the machinery when it was not running. That was the only time I could do it. I got there about 7:30. Mr. Holloway was there when I got there. Between 12 and 1 o'clock I was working on the varnish machine. We were hammering. We worked until ten minutes after 3. We began to take an old partition out and put in a new one about 12 o'clock. It took a good deal of hammering; we were making a racket up there. May Barrett was the first person to come upstairs that day. She came about quarter past eleven. Stayed about three-quarters of an hour. It was after twelve when she left. Mrs. Freeman and Miss Hall were the next to come upstairs and stayed about fifteen minutes. They got a coat and went down. Mrs. White came upstairs about 12:30 to see her husband. She had a good long talk with him. She was still upstairs when Mr. Frank came up. He told Mr. and Mrs. White that he was going to dinner and would like to close the doors. He stayed up there just long enough to tell us that and then went downstairs. Mrs. White went right down behind Mr. Frank. I never heard the elevator run that day. I was up on the fourth floor all day. I can see the wheels turning on that floor. There were no noises in the factory that day, excepting street noises. When the elevator stops it makes no noise; it shakes the floor a little when it stops. You can't hear anything except shaking the building when it starts. You can hear the elevator better when the machinery is not running. If the wheels had been running that day I could have seen them from where I was. When I left at ten minutes after three, I saw Mr. Frank. Mr. White and I came down together. Before we went out, Mr. Frank came upstairs about three o'clock and asked was we getting out, and we told him we were getting ready to go right now. We

were washing right then. When we came out we saw Mr. Frank at his desk in his office writing. Mr. White borrowed $2 from him. He did not look nervous or unusual. You can look down from the landing on the third floor and see whether anything is being put in or taken out of the elevator on the office floor. White and I on the fourth floor could have gone anywhere in the building that day. It was open to us.

CROSS EXAMINATION.

We were working about 40 feet from the elevator. There were crocus sacks upon the floor where we were working. The first time Mr. Frank came upstairs was about ten minutes to one. At the coroner's inquest I said I wasn't certain of the time. The second time he came up was about three o'clock. We had finished our work and were washing up and getting ready to go. I am not certain of the time he came up the first time. I think it was 10 minutes to one. That's about the time Mrs. White left. He didn't say he was going right then. He said he wanted to go out. The wind was blowing strong that day and slapping the blinds backward and forward. There were no other noises inside the building. We stayed up on the fourth floor all day except one time when we went down about a quarter past eleven to have Mr. Holloway put some pieces on the band saw. It was a mistake when I told at the coroner's inquest that I had not left the fourth floor at all that day. A person could have gone in the building and gone out and we not have known it. We were knocking and hammering all the time about midway of the building. It might have been a good deal of noise on the office floor and we would not have known it. I said at the coroner's inquest that Mr. Frank had a habit of rubbing his hands together. We left Mr. Frank in the factory when we left there. I saw some spots Monday they said was blood.

MINOLA McKNIGHT (c), sworn for the Defendant.

I work for Mrs. Selig. I cook for her. Mr. and Mrs. Frank live with Mr. and Mrs. Selig. His wife is Mrs. Selig's daughter. I cooked breakfast for the family on April 26th. Mr. Frank finished breakfast a little after seven o'clock. Mr. Frank came to dinner about 20 minutes after one that day. That was not the dinner hour, but Mrs. Frank and Mrs. Selig were going off on the two o'clock car. They were already eating when Mr. Frank came in. My husband, Albert McKnight, wasn't in the kitchen that day between one and two o'clock at all. Standing in the kitchen door you can not see the mirror in the dining room. If you move up to the north end of the kitchen where you can see the mirror, you can't see the dining room table. My husband wasn't there all that day. Mr. Frank left that day sometime after two o'clock. I next saw him at half past six at supper. I left about eight o'clock. Mr. Frank was still at home when I left. He took supper with the rest of the family. After this happened the detectives came out and arrested me and took me to Mr. Dorsey's office, where Mr. Dorsey, my

husband and another man were there. I was working at the Selig's when they come and got me. They tried to get me to say that Mr. Frank would not allow his wife to sleep that night and that he told her to get up and get his gun and let him kill himself, and that he made her get out of bed. They had my husband there to bulldoze me, claiming that I had told him that. I had never told him anything of the kind. I told them right there in Mr. Dorsey's office that it was a lie. Then they carried me down to the station house in the patrol wagon. They came to me for another statement about half past eleven or twelve o'clock that night and made me sign something before they turned me loose, but it wasn't true. I signed it to get out of jail, because they said they would not let me out. It was all written out for me before they made me sign it.

CROSS EXAMINATION.

I signed that statement (State's Exhibit "J"), but I didn't tell you some of the things you got in there. I didn't say he left home about three o'clock. I said somewhere about two. I did not say he was not there at one o'clock. Mr. Graves and Mr. Pickett, of Beck & Gregg Hardware Co., came down to see me. A detective took me to your (Mr. Dorsey's) office. My husband was there and told me that I had told him certain things. Yes, I denied it. Yes, I wept and cried and stuck to it. When they first brought me out of jail, they said they did not want anything else but the truth, then they said I had to tell a lot of lies and I told them I would not do it. That man sitting right there (pointing to Mr. Campbell) and a whole lot of men wanted me to tell lies. They wanted me to witness to what my husband was saying. My husband tried to get me to tell lies. They made me sign that statement, but it was a lie. If Mr. Frank didn't eat any dinner that day I ain't sitting in this chair. Mrs. Selig never gave me no money. The statement that I signed is not the truth. They told me if I didn't sign it they were going to keep me locked up. That man there (indicating) and that man made me sign it. Mr. Graves and Mr. Pickett made me sign it. They did not give me any more money after this thing happened. One week I was paid two weeks' wages.

RE-DIRECT EXAMINATION.

None of the things in that statement is true. It's all a lie. My wages never have been raised since this thing happened. They did not tell me to keep quiet. They always told me to tell the truth and it couldn't hurt.

EMIL SELIG, sworn for the Defendant.

I am Mr. Frank's father-in-law. My wife and I live with Mr. Frank and his wife. The kitchen in our house is next to the dining room. There is a small passage way between them. The sideboard in the dining room is in the same position now, as it has always been. Mr. Frank took breakfast

before I did on April 26th and left the house before I breakfasted. I got back home to dinner about 1:15. My wife and Mrs. Frank were eating then. They told me in the morning to come home a little sooner, that they wanted to go to Grand Opera that afternoon and have dinner a little earlier than usual, and I came home a little earlier. Mr. Frank came in after I did, about 1:20. There was nothing unusual about him. No scratches or bruises about him. He sat down to his meal. The ladies left us while he was still eating. I don't know what Mr. Frank did after dinner, I went out to the chicken yard. Mr. Frank was still in the hall when I got back. I laid down and went to sleep. I did not see him when he left. I saw him about 6:30 that evening. Mrs. Frank and Mrs. Selig had not yet gotten back. They came in a short while. We ate supper about seven o'clock. I noticed nothing unusual about him at supper. We finished supper about 7:25. Mr. Frank sat in the hall and read. A party of our friends came to the house and played cards after supper. Frank and his wife did not play. They do not play poker. They play bridge. He was reading in the hall while we were playing. He came in one time while we were playing and said he read a story about a baseball umpire's decision and he was laughing. Frank answered the doorbell several times that evening when the guests came. He and his wife went to bed before the company left, about 10 or 10:30. He came to the door and told us good-night and went upstairs. His wife went up shortly afterwards. Our party broke up about half past 11. I did not hear the telephoning early Sunday morning. I saw no scratches on Frank Sunday morning.

CROSS EXAMINATION.

I have never seen the servants move that sideboard. I say it was about 1:20 when Mr. Frank came home to lunch, because I left town about 1:10. The car reaches our corner between 1:10 and 1:20. I got home a little after one. About 1:10. Mr. Frank may have laid down and taken a nap after dinner. I don't know. I laid down and took a nap. Mr. Frank was gone when I woke up. I have heard Mr. Frank frequently call up the factory from his home at night. I talked very little with Mr. Frank on Sunday when he got back home. I don't recall any conversation I had with him relative to the murder. I did not pay any attention to anything he said about the murder at dinner time. I have no recollection of telling coroner's jury that he did not leave before I got up. I don't know what I told coroner about talking to Frank that day. I knew that my son-in-law was superintendent of factory and that a girl was found killed there and I did not refer to the subject that day. I don't remember saying that Frank didn't say anything about it when he came home. I ate dinner with him. I remember stating at coroner's jury that Frank came home and didn't say a word about it all day to me.

MRS. EMIL SELIG, sworn for the Defendant.

I am Mrs. Frank's mother. Mr. and Mrs. Frank have been living with us two years. The sideboard is in the same position it always has been except when we sweep under it. We had lunch on April 26th after 1 o'clock, about ten minutes past one. Mr. Frank came about twenty minutes past one while we were eating. He sat down with us and ate. Mrs. Frank and I left before he did. We left about half past one. He was still eating at the table. After the opera, while we were on the street car, passing Jacob's drug store we saw Mr. Frank at about 6:10. I happened to look up at the clock and saw it was 6:10. We stopped at my sister's, Mrs. Loeb before going home. Mr. Frank was there when we got there. We saw nothing unusual about him. No scratches, bruises, wounds or marks. We got home about half past six. We sat down to supper about a quarter to seven. Mr. Frank ate with us. We finished at a quarter past seven. We played cards that night in the dining room with a party of friends. Mr. Frank and his wife did not play. They do not play poker. They play bridge. He was sitting in the hall reading. Mr. Frank answered the doorbell and let in some of the guests. He came in once while we were playing cards to tell us about a joke that he had read about an umpire and he laughed out very heartily. He went to bed between ten and ten thirty. He told us all goodnight before going. Mrs. Frank followed a few minutes afterwards. We played cards until about twelve. I did not hear the telephone ring next morning. It did not wake me up. I saw Mr. Frank next day about 11 o'clock. I saw no blood spots or marks or bruises or cuts about him. I think he was arrested on Tuesday.

CROSS EXAMINATION.

I am not mistaken about seeing Mr. Frank about 1:20 on Memorial Day. We were eating dinner when he came in. Mr. Frank got home about 11 o'clock Sunday. He told us he had been sent for to come to town. He spoke of a crime having been committed. I asked him what had happened. I don't remember that he told me about the crime. He did not seem unconcerned about it. I said at coroner's that I thought he seemed unconcerned about it. I don't remember his remarking about the youth of the girl or the brutality of the crime. He didn't describe any wounds. He didn't give any theory as to how it happened. He was anxious as to how it happened. I have forgotten what suits Mr. Frank wore Saturday, Sunday and Monday. I think I said before the coroner that he wore the same suit Saturday, Sunday and Monday. But I was mistaken. I don't remember saying before coroner whether Frank evidenced any curiosity or advanced any theory about it or not. I knew he wore one suit during the week and a different one on Sunday, and my impression was that on that Sunday he wore the same one. I don't think Mr. Frank mentioned the name of the girl that was killed on

Sunday. The first that I knew of it was when I saw her name in the paper the next morning. The subject was mentioned at the dinner table on Sunday.

RE-DIRECT EXAMINATION.

My health is bad and I did not care to hear much of the facts of the crime at the time. I was operated on the next day. Mr. Frank spared my feelings. These are the clothes Mr. Frank wore on April 26th (Defendant's Exhibit 49).

MISS HELEN KERNS, Sworn for the Defendant.

I work for the Dodson Medicine Company as stenographer. My father works for Montag. I took shorthand under Professor Briscoe last winter. I have seen Mr. Frank in his factory. I went there with Professor Briscoe to get a job. I didn't get the position. I was working on the 26th day of April for Bennett Printing Company. That day I got off about 12 o'clock. I then went around in town to the different stores and did some trading. I had an appointment to meet a girl at 1:15 at the corner of Whitehall and Alabama Streets, at Jacobs' Drug Store. About 5 minutes after one I came out of Kress' Store on Whitehall Street. I looked at the clock in front of Freeman's Jewelry Store. I immediately went to Jacobs' corner. I had been standing there about five minutes and I turned around and saw Mr. Frank standing there right up against the building at the corner of Alabama and Whitehall street. I do not know how long he had been there. That was about ten minutes after one. After I saw him I waited about ten minutes until my friend came. She was a little behind time. She came about twenty minutes after one. I read about this tragedy about the middle of the week. I then recalled seeing him about that place and told my father.

CROSS EXAMINATION.

Yes, there was a large crowd on the street that day. I had been standing there about five minutes when I turned around and saw Frank. It was not packed and jammed at that time, not up against the building. The procession did not come along until almost three o'clock. There was plenty of room on that corner. I stood there from five minutes after one until twenty minutes after one. After I met my friend we went back to Kress'. I did not speak to Mr. Frank. He was standing up against the building up Alabama Street. It was not real crowded up Alabama Street. You could not stand in the middle of the sidewalk. I got a clear view of Mr. Frank. I don't think he saw me. I don't think he would have recognized me because he sees so many faces every day he would not know mine. I had only met him once. I recognized him. I can't be mistaken about the time I saw him because I looked at the clock just before I got there. When my friend met me we went around the corner. The clock stood twenty minutes after one. Kress' store did not close at 12, because I was in there after 12. I am sure of that. I was watching the

clock because I had an appointment at a quarter after one. I left Kress' at five minutes after one and went down Whitehall street to Jacob's corner. Whitehall street was badly crowded. It didn't take me more than a minute or a minute and a half to walk down to the corner. It was only a few steps. There was no one standing between Mr. Frank and myself on Alabama Street.

MRS. A. P. LEVY, Sworn for the Defendant.

I live right across the street from where Mr. Frank lives. I am not a relation of his either by blood or marriage. I saw him get off a car on Memorial Day between one and two o'clock. I was dressing to go to the matinee and was watching the cars as they passed to look out for my son who was late to dinner and saw Mr. Frank get off the car and cross the street to his home. I had a clock on my dresser and also one in the dining room, and I was hurrying to meet a friend at 2 o'clock, and I wanted to see a sick friend before going to matinee.

CROSS EXAMINATION.

I noticed that Mr. Frank got off at 1:20, because I was looking at the clock. I was watching the car for my son. I had already had lunch. I could not wait for him. He tried to get me over the phone but could not reach me. The reason I knew it was that time I was looking at my clock and noticing the cars as they passed and my son had not come yet. That was the only reason I would have noticed it.

RE-DIRECT EXAMINATION.

My children on Memorial Day instead of coming home at 12:20 or 12:30, came home at 1:30.

MRS. M. G. MICHAEL, Sworn for the Defendant.

I live in Athens. On April 26, I was at 387 Washington Street at 2 o'clock, at the residence of my sister Mrs. Wolfsheimer. Mrs. Frank is my niece by marriage. I am no kin to Mr. Frank. I saw Mr. Frank about 2 o'clock on April 26th. He was going up Washington Street towards town when I first saw him. I remember it was about 2 o'clock, because my son David was going to the matinee and he had to leave home before 2, and he had just left a few minutes when I saw Mr. Frank. I was on the front porch when I saw him. He came up just to the front porch. He greeted me and asked me about my people at home. We carried on a casual conversation. I noticed nothing unusual about him. I noticed no scratches or marks or any nervousness about him. He walked up Washington Street to the corner of Glenn and caught the Washington Street going to town at Glenn Street. My son Jerome, my nephew Julian Loeb and my sister Mrs. Wolfsheimer were also there and saw him.

CROSS EXAMINATION.

He had not seen me for several weeks. He didn't know I was in the city, and when he saw me there on the porch he came over to speak to me. 387 Washington Street is three doors above Georgia Avenue. I saw him take the car at the corner of Glenn and Washington Street.

JEROME MICHAEL, Sworn for the Defendant.

I live in Athens. I was in Atlanta on April 26th. I took dinner at Mrs. Wolfsheimer's residence at 387 Washington Street. I saw Mr. Frank upon that day between five minutes to 2 and 2 o'clock. I know it was that time because I had an engagement with a young lady and I had a watch in my hand most of the time. My brother Dave had just left for the opera when Mr. Frank came up. When I first saw him he was going toward the right hand corner of Washington Street and Georgia Avenue, going up Georgia Avenue. I saw him and called him and when he saw my mother standing on the porch he came over and spoke to her. He stood on the steps of the porch, he stood there just a few minutes until the next car came. I noticed absolutely nothing unusual about him. No scratches, bruises, marks and no nervousness. He ran up to the corner of Glenn and Washington Streets and caught the Washington Street car there going to town.

CROSS EXAMINATION.

I had my watch in my hand about the time I saw Mr. Frank. I practice law.

MRS. HENNIE WOLFSHEIMER, Sworn for the Defendant.

I am the aunt of Mrs. Frank. I live at 387 Washington Street, the third house from the corner of Georgia Avenue. On April 26th, I saw Mr. Frank in front of my house. It was about 2 o'clock. We had finished dinner which we ate at half past one. I was not on the porch when he came up but I walked out on the porch after he came. I did not see him catch the car as I was called in the house before he left. I saw nothing unusual about him. No nervousness or bruises or scratches. I saw no stains on his clothes, no marks or tears of any kind.

CROSS EXAMINATION.

The time is fixed in my mind because we ate dinner at half past one and we had just finished. I was not looking for any scratches or bruises, but I certainly would have seen them if they had been there. I was close enough to him to have seen him.

JULIAN LOEB, Sworn for the Defendant.

I live at 380 Washington Street, across the street from the Wolfsheimer residence. I am a cousin of Mrs. Frank. I saw Mr. Frank on April 26th in front of the Wolfsheimer residence. I was there when he came by. It was between 1:50 and 2 o'clock. He was talking to Mrs. Michael and Mr. Jerome Michael and was inviting them to attend a meeting of the B'nai B'rith lodge on the next day which was Sunday. He was president of that lodge. He left and walked towards town up Washington Street towards Glenn. I didn't see him catch the car.

COHEN LOEB, Sworn for the Defendant.

I was on the car with Mr. Frank going back to town on April 26th after lunch. I caught the car at Georgia Avenue and Washington Street. He caught the car at Glenn and Washington Street which is one block nearer town. That was about 2 o'clock. It was a Washington Street car which goes straight up Washington Street to the Capitol and turns down Hunter. We sat together on the same seat in the car. Mr. Frank got off the car about two or three minutes before I did. He got off in front of the Capitol at about 2:10. The car was blockaded by the crowd which was watching the parade. Mr. Frank went down Hunter Street. There was nothing unusual about him. No marks, or scratches or spots on him. He had on a brown suit and a derby.

CROSS EXAMINATION.

Mr. Frank was sitting next to the window. I know Mr. Hinchey. I did not recognize him as he passed our car in the machine but I recognized his machine. It was going down the street. I recognized it by the dark color. It passed right in front of the car so close as to hit the car and that's what called it to my attention. The top of the machine was up and the sides were open. The car was a dark maroon color and seats from four to seven passengers. I don't know the number of it. I just saw a dark maroon car. I found out afterwards that it was Mr. Hinchey. I only noticed that particular automobile because it ran up in front of the car and the car hit it and nearly turned it over. The accident accurred right at us. There was no jolt to the street car. It was going too slow. They just came together and scraped.

H. J. HINCHEY, Sworn for the Defendant.

I have known Mr. Frank between four and five years. I am mechanical engineer for the South Atlantic Blow Pipe Co. I saw Mr. Frank on April 26th opposite the main entrance to the Capitol on Washington Street. I was driving an automobile. He was on the street car coming down Washington Street going to town. I saw him but did not speak to him. It was between 2 and

2:15. As to how I knew that was the time after this matter came up I experimented to see just what time it was I saw him on the car, and I have gone over my movements just as I did them on that day, and the first time I experimented I got to the Capitol five minutes past two, and the second time I got there at eight minutes past two, and the third time exactly at two o'clock. I came very near colliding with the car in front of the capitol, as I drove around in front of the Capitol. This car Mr. Frank was on rolled up in front of me. As I looked up at the car I saw Mr. Frank sitting in the front end of the car.

CROSS EXAMINATION.

I saw him only for a moment. I was too much occupied in trying to get out of the way of cars and vehicles. The crowd was very thick. I have been to see Mr. Frank once in jail. I mentioned to him that I saw him that day. Mr. Frank and I were only business friends. We have had pleasant business transactions and also controversies. I did not go to jail to talk it over with him. I went there because I had been knowing him for five or six years and was interested in him, because he was implicated in the case. We were not personal friends, but have had a great many business dealings with each other and I naturally felt an interest in this matter.

MISS REBECCA CARSON, Sworn for the Defendant.

I work at the National Pencil Co. I have been there over three years. I work on the fourth floor. I am forelady of the sorting department. I have from thirteen to fifteen girls under me. At times I have heard the elevator running when the machinery in the factory was not running. It makes a noticeable noise. You can notice the vibration of the building and you can notice the ropes of the elevator running, and you can hear the cables of the elevator knocking. On Friday, April 25, I got my pay about 5:30 from the office. On April 26th I saw Mr. Frank looking at the parade in front of Rich's between 2:20 and 2:25. He spoke to me. I saw him again at ten minutes to three going into Jacobs' Pharmacy at the corner of Whitehall and Alabama Street. I looked at the clock at that time. On Monday morning I said to Jim Conley, "Where were you on Saturday? Were you in the factory?" He said, "I was so drunk I don't know where I was or what I did." And Snowball, who was standing there, said, "I can prove where I was. I also overheard a conversation that he had with my mother when he said Mr. Frank was just as innocent as an angel; and when my mother said "The murderer will be the negro Mrs. White saw sitting on a box at the foot of the stairs," Jim dropped his broom quick and didn't finish sweeping.

CROSS EXAMINATION.

He made that remark to me about 8 o'clock Monday morning and I went right back and told my mother of it. The elevator makes enough noise to know it is running. You don't notice it when the machinery is running. You

wouldn't know whether it was running or not unless your attention is directed to it. I had looked at the clock five minutes before I saw Mr. Frank in front of Rich's. I had just looked at the clock also before I saw him going into Jacobs'. I am certain of the times I saw him. That was the exact time by the clock. I get $10.00 a week. Last time my salary was raised it was raised in January. There has been no raise since then. I had heard that some of the sweepers sometimes stay on Saturday afternoons to sweep. I didn't know it. I just asked him if he was there at the factory Saturday afternoon. He never before admitted being drunk to me before. Nobody suspected Jim of the murder at that time. I told my mother of it because I tell her everything. I told Mr. Darley about it. I don't remember when I told him. It was before Conley was arrested on Thursday. I told Mr. Rosser when he was at the factory. That was after Jim was arrested. I did not see the red spot in the metal room on Monday. I didn't go in the metal room until Tuesday. I didn't see it then, because I wasn't looking at the floor.

MRS. E. M. CARSON, Sworn for the Defendant.

I worked at the Pencil Factory three years. Rebecca Carson is my daughter. I am a widow. I have seen blood spots around the ladies dressing room three or four times. I was at the factory Friday morning. I left about 12:45. I saw Jim Conley on Tuesday after the murder. He was sweeping around my table, I said, "Well, Jim, they haven't got you yet," and he says, "NO." On Wednesday I said the same thing and he answered the same thing. On Thursday when I said that to him again he said, "No, I ain't done nothing." I said, "Jim, you know Mr. Frank never did that," and he says, "No, Mr. Frank is as innocent as you is, and I know you is." I said, "Jim, whenever they find the murderer of Mary Phagan it's going to be that nigger that was sitting near the elevator when Mrs. White went upstairs." He laid his broom down then and went out. I could not believe Conley on oath.

CROSS EXAMINATION.

My daughter and I work on the fourth floor. Mr. Frank was up on the fourth floor Tuesday between nine and eleven o'clock. Everybody in the department was around there at that time. I don't know whether any of them heard the conversation between me and Mr. Frank then. I saw both Mr. Frank and Jim Conley on the fourth floor on Tuesday. I did not see Mr. Frank whisper to Conley. Mr. Frank never said a word to any of us about sticking to him. He said it was a deplorable thing little Mary being killed. I have seen blood in the dressing room around the lockers and some around the mirror. I have seen girls up there mash their fingers on the machines. I have seen blood in the sink in the toilet room and on the machines where they cut their fingers. I saw a spot as big as my hand sometime last year on the fourth floor near a garbage can. It looked like blood to me. I have seen spots about as big as my finger, different spots up on the fourth floor. I have

seen girls once or twice come in with their fingers mashed come into the toilet room and go to the sink after they had mashed their fingers. I don't know when I heard that Mrs. White said that she had seen a negro sitting on the box. I think I read it in the paper sometime that week. The big spot of blood I was talking about was occasioned by the girls whose sickness was on them. I have never seen Mr. Frank or anybody else have anybody down at the office at any time drinking beer or doing anything of the sort. I did not go down and see blood on second floor near dressing room.

MISS MARY PIRK, Sworn for the Defendant.

I am one of the foreladies working at the National Pencil Co. I am at the head of the polishing department. I have been there about five years. I talked with Jim Conley Monday morning after the murder. I accused him of the murder. He took his broom and walked right out of the office and I have never seen him since. His character for truth and for veracity is bad. I would not believe him on oath.

CROSS EXAMINATION.

I suspected Jim as early as Monday April 28th. I did not report it to Mr. Frank then. I don't know why I didn't. I knew that Gantt and Newt Lee and Mr. Frank had been arrested. Yes, I have never said anything about it to anybody. I suspected Jim because he looked and acted so different. I told Mr. Arnold and Mr. Rosser about it when they asked me about it. That was after Jim was arrested. Jim acted very peculiar but I thought best not to say anything about it. I knew the company was anxious to get the murderer but I just didn't mention it. I don't know why. I mentioned it to several of the girls standing around, Miss Denham, Miss McCord, Mrs. Johns and several others. I accused Jim before I saw the blood at the ladies' dressing room. It was all smeared over with some kind of white stuff. It covered about two feet in area. I mentioned it to the girls before Jim was arrested. I am not sure whether it was before or after. It was after the coroner's inquest. I have seen several spots in the factory that looked like that spot many times. All kinds of spots. I have seen spots before that looked like that. I don't exactly know when. My opinion is that Mr. Frank is a perfect gentleman. I always found him to be one in my dealings with him. I have never heard any of the girls say anything about him. I have never heard of a single thing immoral that he did do in those five years. I have never heard of his going in the girls' dressing room. I have never heard of his slapping them as he would go by. I have never heard Mr. Frank talk to Mary. I have never heard of the time Mr. Frank had her off in the corner there when she was trying to go back to work.

MISS DORA SMALL, Sworn for the Defendant.

I worked on the fourth floor of the pencil factory for five years. I saw Jim Conley on Tuesday. He was worrying me to get money from me to buy a newspaper and then he would come and ask me for copies of the paper before I would get through reading them. They were extras. He would even get two of the same edition. He would take it and run over there and sit on a box by the elevator and read it. He can read all right. He had on an old Norfolk coat with a belt around it and it buttoned just as tight around his neck as it could be. Before that he had gone around there all open and loose and as slipshod as he could be. I could not tell whether he was wearing a shirt or not because his coat fastened up so tight. He told me Mr. Frank is just as innocent as I am and he says, "God knows I was noways around this factory on Saturday." I didn't see Mr. Frank talking to Jim anywhere in the factory on Tuesday. I have never seen him talk to that nigger in my life. I have never been down in Mr. Frank's office after hours, drinking or doing anything wrong at any time. I have known Conley for two years. His general reputation for truth and veracity is bad. I don't know of any nigger on earth that I would believe on oath.

CROSS EXAMINATION.

I would not believe Snowball on oath. I would not believe any nigger. I got a fifty cent raise in salary about four months ago. I have got no raise since Mr. Frank has been locked up. It was before this murder took place. I did not see Mrs. Carson talk to Jim on Tuesday or Wednesday. She worked in one end of the building and I worked in the other. I saw Mr. Frank and Miss Carson talking on business between eight and nine o'clock on Tuesday. They stopped right in front of my machine. Mr. Frank went down stairs and Miss Carson went on back to her work. He used to come up there frequently. Conley was standing at the elevator. He was standing with his hand on a truck. He was not sleeping. He must have seen me and Mr. Frank. Mr. Frank did not see Conley. When Mr. Frank went down the steps Conley was still standing at the elevator. Conley was asking me for newspapers all during the morning every time they would holler "extra." He would come to me. That was after Mr. Frank had gone. That continued all day Tuesday and Wednesday. I didn't buy any extras on Monday. I bought four before noon on Tuesday. The elevator makes a right smart noise. Shakes the whole building. Any body in the world can tell it is running if the machinery is not running; but you can't notice it much unless you are right close to the elevator. Some of us went back in the metal room one day to see if we could see any blood spots. Mrs. Carson and Mrs. Thompson I think were with us. Curiosity led us down there. We saw where the floor had been chipped up. Saw something that looked like white face powder around the chipped up place. Looked like some of the girls had powdered their faces and spilt the powder. There were two or three spots, some the size of a nickle and some the size of a quarter. The floor was very dirty all over.

MISS JULIA FUSS, Sworn for the Defendant.

I work on the fourth floor of the pencil factory. I have never known anything wrong or immoral to be going on in Mr. Frank's office. I talked with Jim Conley Wednesday morning after the murder. He was sweeping around there and asked me to see the newspaper. As he read it he kinder grinned. He told me he believed Mr. Frank was just as innocent as the angels from Heaven. I know his general character. He was never known to tell the truth. I would not believe him on oath.

CROSS EXAMINATION.

I saw the dark red spots by the water cooler in the metal room where they had chipped up something. Something white was dropped all over it. The spots did not look like they had been smeared over. Looked like a plain drop of blood. I think it was paint because there was paint used there all the time. They asked me soon after the murder about the general character of Frank. They asked me if I knew anything against his character and I told them no. They generally spoke well of him. They always spoke good of him. I have always heard him spoken of in the highest terms. I have never heard him accused of any act of immorality or familiarity with the girls in the factory. Jim Conley got two papers from me on Tuesday and Wesdnesday. I bought them. Jim always seemed to be kind of nervous or half drunk or something. He did not arouse my suspicions until after he began to read the papers and grin about them and comment on them. I didn't see Mr. Frank speak to Conley on Tuesday. Conley was not there. I am sure of that. Mr. Frank came up there twice, once at 9 and again in 15 or 20 minutes. He came around to see if everything was in good working order. He spoke to Miss Carson and Mr. Darley and to a little boy. And then went on down stairs. He came back in about fifteen or twenty minutes to see if everything was going on alright. He spoke to Miss Carson again about the work. He always came upstairs to see if everything was going on all right.

EMMA BEARD (c), Sworn for the Defendant.

I am Mr. Schiff's servant. On April 26th somebody called Mr. Schiff on the telephone. I answered the telephone. It was about half past ten. It sounded like a boy's voice. It said, "Tell Mr. Schiff Mr. Frank wanted him at the office." Mr. Schiff was asleep at the time. I waked him up and he said, "tell Mr. Frank I will be there as soon as I can get dressed." And I repeated the message to the boy and told him what Mr. Schiff said. Then Mr. Schiff went back to sleep again. The same voice called up Mr. Schiff again about eleven o'clock. Said he wanted Mr. Schiff to come down to the office. Mr. Schiff told me to tell him he would be there as soon as he could get dressed and I told him what Mr. Schiff said.

CROSS EXAMINATION.

I have been in Mr. Schiff's house about seven years. On Saturdays and holidays Mr. Schiff generally sleeps. Sometimes he goes to the factory when I wake him up. He never gets up unless I wake him. Mr. Schiff told me sometime afterwards he was glad I did not wake him up that day. I know it was eleven o'clock when he called up the second time, because the clock was striking. They didn't say what Mr. Frank wanted him for.

ANNIE HIXON (c), Sworn for the Defendant.

I am Mrs. Ursenbach's servant. Mr. Frank called up on the telephone about half past one on April 26th. I told him Mr. Ursenbach was not in and he said "Tell Mr. Charlie I can't go to the ball game this afternoon." I told Mrs. Ursenbach about it.

CROSS EXAMINATION.

I have been working for Mrs Ursenbach two years. Mr. Frank and his wife came over to Mrs. Ursenbach's on Sunday after we had breakfast about nine o'clock. They come over there every Sunday. I didn't pay any attention to what they talked about that morning. They were just laughing and talking like they always do. Yes, he laughed. They were all laughing together. He wasn't nervous or excited so far as I could see. Nothing unusual about him. Don't know what they were laughing about.

J. C. MATTHEWS, Sworn for the Defendant.

I was at Montag Brothers on April 26th. I saw Mr. Frank in the office of Montag Bros., in the morning of that day. I couldn't give you the exact time. I work at Montag Bros.

ALONZO MANN, Sworn for the Defendant.

I am office boy at the National Pencil Company. I began working there April 1st, 1913. I sit sometimes in the outer office and stand around in the outer hall. I left the factory at half past eleven on April 26th. When I left there Miss Hall, the stenographer from Montag's, was in the office with Mr. Frank. Mr. Frank told me to phone to Mr. Schiff and tell him to come down. I telephoned him, but the girl answered the phone and said he hadn't got up yet. I telephoned once. I worked there two Saturday afternoons of the weeks previous to the murder and stayed there until half past three or four. Frank was always working during that time. I never saw him bring any women into the factory and drink with them. I have never seen Dalton there. On April 26th, I saw Holloway, Irby, McCrary and Darley at the factory. I didn't see Quinn. I don't remember seeing Corinthia Hall, Mrs. Freeman, Mrs. White, Graham, Tillander, or Wade Campbell. I left there 11.30.

CROSS EXAMINATION.

When Mr. Frank came that morning, he went right on into the office, and was at work there and stayed there. He went out once. Don't know how long he stayed out.

M. O. NIX, Sworn for the Defendant.

I am credit man for Montag Bros. and bookkeeper. I have charge of the bookkeeping and documents and papers of the National Pencil Company. I am familiar with Mr. Frank's handwriting. These financial sheets beginning with May 22nd, 1912, and ending May 24, 1913 (Defendant's Exhibit 9), are in Mr. Frank's handwriting. The eleven items beginning with order No. 7187 running through No. 7197, appearing on pages 56 and 57 of the house order book (Defendant's Exhibit 12) are in Mr. Frank's handwriting. These entries below that are in Miss Hattie Hall's handwriting. I employed Miss Hattie Hall as my stenographer. Mr. Montag and Mr. Frank had nothing to do with it. I raised her wages on first of August, because I promised her that when she first came here. These eleven requisition sheets (Defendant's Exhibit, 25 to 35 inclusive) are in Mr. Frank's handwriting. I saw Mr. Frank on the morning of April 26, at Montag's. He asked me to allow Miss Hattie Hall, my stenographer, to go over to the factory to assist him as his stenographer was away and he was piled up with work. And I told him I didn't think she should go until she finished Mr. Montag's mail. He said something then about her coming over in the afternoon, and I said I didn't think she ought to work over there as it wasn't her work, and I told her not to do it, but I told her if she got through with Mr. Montag's mail she could go overe there that morning and help him, if she could assist him in anyway.

CROSS EXAMINATION.

I have never seen Frank write any of the documents which I say are in his handwriting. I have seen him write. I don't know their system of doing work down at the factory. This order could not have been received on April 22nd (Defendant's Exhibit 27). The signature of H. G. Schiff on the requisition sheets (Defendant's Exhibits 25 to 35 inc.) means that he checked it when the order was filed. I have been with Montag Bros. seven or eight years. I don't know whose handwriting that is (State's Exhibit K). It looks like Mr. Frank's, but it is not clear to me. It is entirely different from his usual handwriting. It is different from those I have identified positively as Mr. Frank's, but it is figures on those, and here it is in the form of a letter. There is no comparison. With a few capital letters you can't get an idea of a man's handwriting. I am not positive that that is Mr. Frank's handwriting. It might be. You take this sheet here (requisition sheet) and you can't get an idea of a man's handwriting from this, because everything is figures in here. His writing might be entirely different if he sat down to write a letter.

RE-DIRECT EXAMINATION.

I have never seen a letter written by Mr. Frank. The only writing of his that I am familiar with are figures and things like that, pay-rolls, writings in requisitions and words that consists largely of abbreviations.

HARRY GOTTHEIMER, Sworn for the Defendant.

I am a traveling salesman. I make two trips a year for the National Pencil Company, from the first of February to the first of April, and from the first of September to the fifteenth of October. I was at Montag Bros. around ten o'clock on April 26th. I had come in from my trip on the road and was writing up my orders. I had been away ten days. Mr. Frank came in after I got there. I asked him about two important orders as to their shipments and he replied that he couldn't tell whether they had been shipped or not, but that if I would return to the factory with him he would give me the duplicate invoices and let me see for myself. I replied that I would not have time to go back, as I had lots of orders. He says: "If you can't come now, come this afternoon." And then he walked in to Mr. Montag's office, and as he went into the office he said "Come up now, or come up after dinner."

CROSS EXAMINATION.

I saw Frank in his office one Saturday afternoon in the early part of April about three o'clock. His wife was there doing some stenographic work for him. Mr. Frank said Saturday morning, April 26th, that if I couldn't come to the factory in the morning that I should come in the afternoon. I am sure of that conversation. Miss Hall heard part of it. I had been in his office on previous Saturday afternoons. I never found any of the doors locked. He was always working.

MRS. RAE FRANK, Sworn for the Defendant.

I am the mother of Leo Frank. I live in Brooklyn. I lived in Texas three years, where Leo was born. Mr. Moses Frank of Atlanta is my husband's brother. I saw him at Hotel McAlpin in New York City on April 27 and April 28. The letter that you hand me (Defendant's Exhibit 42) I saw on Monday, April 28th. It is my son's handwriting. This sheet (Defendant's Exhibit 43) is a sort of financial sheet. I had lunch with Mr. Moses Frank at Hotel McAlpin on Monday, April 28th. His wife read this letter to him in my presence and it was handed to me afterwards. I also saw that sheet (Defendant's Exhibit 43) but I did not understand it. The handwriting on that envelope (Exhibit for Defendant, 44) is that of my son. The word "Yondiff" in the letter is Hebrew, meaning "Holiday."

CROSS EXAMINATION.

The letter was folded exactly as it is now to the best of my recollection, just in that shape. Mr. Frank has no rich relatives in Brooklyn. That is my son's handwriting (State's Exhibit K). It is a photographic copy. There was another paper included in the envelope which that letter came in, some price list, but I didn't look at it. It had numbers of pencils and prices on it. That letter was read in Hotel McAlpin, in Mr. Moses Frank's room. As to what relatives Mr. Frank has in Brooklyn, my brother-in-law, Mr. Bennett, is a clerk at $18 a week. My son-in-law Mr. Stearns is in the retail cigar business. As to what my means of support are, we have about $20,000 out at interest, my husband and I, at six per cent. We own the house we live in. We have a $6,000 mortgage on it. The house is worth about $10,000. My husband is doing nothing. He is not in good health. Up to a year ago he was a traveling salesman. These are the only relatives my son has in Brooklyn. Mr. Moses Frank, my brother-in-law, generally spends a Sunday with us in Brooklyn, before he sails for Europe. He spends Sunday with us in Brooklyn and has dinner with us. He was not in Brooklyn on April 26th. He is supposed to be very wealthy. I don't know how much cash my husband has in bank. A few hundred dollars possibly. My husband is 67 years old. He is broken down from hard work and in very poor health. He was too unwell to come down here.

OSCAR PAPPENHEIMER, Sworn for the Defendant.

I am in the furniture business. I am also a stockholder of the National Pencil Company. I have been getting comparative sheets as to the weekly business of the Company from Frank since March, 1910. Up to the time the Post Office distributed mail on Sunday, I used to always go to the Post Office to get my mail and always found this report on Sunday morning. When I quit going to the Post Office on Sundays I received the reports in the first mail on Monday mornings. I have here the report for the week ending April 24, 1913 (Defendant's Exhibit 45). I got that on Monday morning, April 28th. I also have here all the comparative sheets received by me every week beginning January 18, 1912, up to April 24, 1913 (Defendant's Exhibit 46).

C. F. URSENBACH, sworn for the Defendant.

I married a sister of Mrs. Leo Frank. I phoned him on Friday and asked him if he would go to the baseball game Saturday. He said he didn't know, he might go and would phone me later and let me know. On Saturday when I got home about twenty minutes to two my cook told me that Mr. Frank had phoned and told me that he wasn't going to the game. I saw him on Sunday, after the murder, at my house. I saw no scratches, marks or bruises on him. He seemed to be a little disturbed in mind. I saw him again that afternoon. He told us about the tragedy. That evening we met

him and his wife coming down Washington street opposite the Hebrew Orphans Home. He gave me my rain coat right there, which he had borrowed previously.

CROSS EXAMINATION.

He and his wife and my wife and myself generally play cards Saturday evening. We were very much interested in bridge and played together often. Mr. and Mrs. Selig's family usually played poker Saturday night. Mr. Frank and his wife never played poker. I am positive I rang Mr. Frank up and asked him to go to the ball game. Mr. Frank called it off about one thirty on Saturday; when I got home and got the message from my cook it was twenty to two. Mr. Frank borrowed my rain coat at 4:30 on Sunday when it was raining, and I met him about 6 o'clock on Washington Street, and he returned it. He never had that rain coat until Sunday afternoon. I am positive that he did not have it on Saturday.

MRS. C. F. URSENBACH, sworn for the Defendant.

I am Mrs. Leo Frank's sister. I received a telephone message for Mr. Ursenbach from Mr. Frank through my cook on Saturday at half past one. I saw no scratches, bruises, or marks on Mr. Frank on Sunday. He was nervous as one would have been under the circumstances. He borrowed a rain coat from my husband that afternoon. The rain coat was at our house on Saturday. It was there when my husband asked him if he would wear it on Sunday. Mr. Frank did not have it on Saturday.

CROSS EXAMINATION.

On Sunday Mr. Frank when he was at the house told us he had been called down town and that this little girl was murdered, and he told what a horrible crime it was. He did not say who committed it. He said nothing about employing a lawyer. He said nothing about how he slept the night before. I think he told about being at the undertaker's in the afternoon. I did not hear him say anything about his visit to the undertaker's in the morning. He said he had been taken down to the factory in the morning by the detectives. He said he had thought he heard the telephone ringing in his sleep, the night before. He said when he saw the corpse it was a grewsome sight. He said nothing about why he did not stay in the room and look at the corpse longer or more carefully. He said nothing about suspecting Newt Lee as being the guilty party. He said he was sorry he let Gantt in the factory Saturday afternoon, because he mistrusted him, because he had not been honest. He did not say he thought Newt Lee or Gantt had committed the crime. He said nothing about the clock having been improperly punched. I was not in the room the entire time. I had guests and I was out a good deal of the time. I don't know if he knew the name of Mary Phagan then or not. I think he said she was choked. He didn't

say anything about a cord around her neck but said she had a frill of her petticoat around her neck. He mentioned he had paid her off the Saturday before. I don't know that he mentioned the name of the girl at all at that time. He said he had discharged Gantt because he was not honest. I think he said Newt Lee was a good fellow as much as he knew about him. On Monday night over at Selig's Mr. Frank was there and we had a conversation on the subject. He spoke of having a detective at the house in the morning, that the detectives thought that he had done it and how strange it was that they should say so. He didn't say that he suspected anybody. He seemed to be calm as usual that night. He never mentioned suspecting anybody of the crime. On Monday night he said he had been suspected in the morning by the detectives. That night he sat on the couch and patted his foot. That was the only indication of nervousness I saw. Mr. Frank did not have Mr. Ursanbach's rain coat on Saturday. It was in our house all day Saturday and until my husband asked him Sunday if he would wear it.

MRS. A. E. MARCUS, sworn for the Defendant.

I am a sister of Mrs. Leo Frank. I played cards Saturday night at Mrs. Selig's. Mr. Frank was there sitting out in the hall reading, and Mrs. Frank was going in and out of the room. Mr. Frank went to bed after ten o'clock. I noticed nothing unusual about him, no bruises, marks or signs.

CROSS EXAMINATION.

He came in one time and told me something funny about a baseball joke. We were still playing when he went to bed.

MRS. M. MARCUS, sworn for the Defendant.

I am no relation of Mr. or Mrs. Frank. I saw Mr. Frank at half past eight or a quarter to nine in the evening on April 26th, at Mrs. Selig's residence. We played cards there. Mr. Frank opened the door for us. He stayed in the hall reading. We played cards in the dining room. He went to bed between ten and half after ten. He appeared as natural as usual. I left the house about twelve o'clock.

CROSS EXAMINATION.

We had a game of cards every Saturday afternoon at somebody else's house.

M. J. GOLDSTEIN, sworn for the Defendant.

I played cards Saturday night, April 26th, at Mrs. Selig's house. I got there about 8:15. We played in the dining room. Mr. Frank was sitting in the hall. There was nothing unusual about him, no nervousness or anxiety.

There was nothing that attracted our attention. I have never known Mr. or Mrs. Frank to play poker. I should say he went to bed about 10:30. His wife followed about fifteen minutes afterwards. I never noticed any marks or bruises about his person.

CROSS EXAMINATION.

He came in while we were playing to tell us of some joke he had read, and we asked him to desist as it was distracting us from the game. Frank was reading a magazine which caused him considerable merriment and laughter.

I. STRAUSS, sworn for the Defendant.

I was at the home of Mrs. Selig, Saturday night, playing cards. I got there about 10:30. Mr. Frank let me in. While we played he was sitting in the hall reading. I could see him through the door. There was nothing unusual about him. He went to bed immediately after I got there. His wife went to bed soon afterwards.

MRS. EMIL SELIG, recalled for the Defendant.

(Witness denies categorically that any of the contents of Minola McKnight's affidavit (State's exhibit J) are true.) I have never raised Minola's wages one penny since she has been with me.

CROSS EXAMINATION.

I didn't see Albert McKnight at my house on Saturday. He has been to the house two or three times. I was in bed when Mr. and Mrs. Frank went down stairs Sunday morning in response to the ringing of the telephone. Mr. Frank got home about eleven o'clock Sunday morning and then ate his breakfast. He and his wife went out together. Minola was paid $3.50 a week. I advanced her a week's wages. I don't know what week that was. I didn't pay her anything the next week. The first week I gave her $5.00 and told her to give me the change. She brought $1.00 the next morning, and told me she kept 50 cents which I deducted the next week. I think Mrs. Frank gave her a hat. I don't know when that was. Mrs. Frank has never given her any money to my knowledge.

SIGMUND MONTAG, sworn for the Defendant.

I am engaged in manufacturing stationery. I am treasurer of the National Pencil Company. The company receives its mail at my office, which is two blocks from the pencil factory. Frank comes to my office every day of the year to get the mail and instructions with regard to orders and the business of the factory. He came to my office on April 26, about ten o'clock

and stayed about an hour. He talked to me, my stenographer, Miss Hattie Hall, and Mr. Gottheimer, one of the salesmen. Up to about a year ago I went to the factory almost every Saturday afternoon. Mr. Frank would always be working at his desk on the financial sheet. The telephone in my house is about 20 feet from my bed. I did not hear it ring Sunday morning. My wife was aroused by its ringing and she waked me. The man at the other end asked me if I could identify a girl that was killed in the basement of the pencil factory. I referred him to Mr. Darley who was most familiar with the help in the factory. After breakfast Mr. Frank came to my house. It was a raw, chilly morning. He was no more nervous than we were about the murder when we saw him that morning. I was very much agitated and trembled. My wife was very nervous and commenced to cry. I saw no marks, scratches or discolorations of any sort on his face, and there were no spots on his clothing. I went to the factory that morning and made a general examination, including the metal room. We saw nothing on the floor. Frank was very much nervous and agitated when he told us about the occurrence. We have a great many accidents in the metal room. They would be brought to the front of the building into the office. I heard that about nine o'clock Monday morning Mr. Frank had been taken to police headquarters. I knew that he had a very limited acquaintance there and I therefore telephoned for Mr. Herbert Haas, my personal counsel and counsel for the pencil company to go down there. Mr. Haas answered that he didn't like to leave home that morning, that his wife was expecting a new arrival, so I sent my automobile after him. Mr. Haas came back and said he was refused admittance to Mr. Frank at the station house, and said he was going to telephone Mr. Rosser. He then telephoned for Mr. Rosser. That was between half past ten and eleven. Mr. Rosser came down to the station house thirty of forty minutes later. I saw Mr. Rosser go upstairs. About forty minutes later Mr. Black and Mr. Haas left police headquarters with Mr. Frank. I always received the financial sheet on Monday morning. Mr. Frank would bring them over in envelopes. I saw the financial sheet of April 24 (defendant's exhibit 2) on Monday afternoon about three o'clock. That was after Mr. Schiff called me over the telephone and asked me if I would sanction the employment of the Pinkertons to ferret out this crime, and I told Mr. Schiff to go ahead. I told him and Mr. Darley to help the authorities all in their power to find out the murderer, whoever he might be.

CROSS EXAMINATION.

Mr. Frank was well acquainted with our attorney, Mr. Haas. He was president of the B'nai B'rith. The B'nai B'rith has between four or five hundred members, I should say. When I say that Mr. Frank had a limited acquaintance, I meant that the people around police headquarters did not know Mr. Frank. Mr. Frank did not ask for an attorney. Mr. Schiff told me that Mr. Frank had spoken to him about employing the Pinkertons. Mr. Frank was very nervous when he was at my house Sunday morning. He

had already been to the undertaker's. He told me they had taken him into a dark room and flashed on a light, and he said he saw the little girl there. He described how she looked. He said her face was scratched and her eye was discolored, and she seemed to have a gash in her head. Her mouth was full of sawdust and he described her in a general way. He did not call my attention to his being nervous. He did not say anything to me about an attorney or about having been to police headquarters. I don't know whether he had been to police headquarters or not. I authorized the employment of the Pinkertons on Monday. I had not then employed counsel. My sending Mr. Herbert Haas to see Mr. Frank was not employing counsel. I made no trade with Mr. Haas. Don't know who is paying his fee. I have not contributed anything towards it, nor has the Pencil Company. The Pencil Company is employing the Pinkertons. As to whether they have been paid yet or not, they haven't requested their pay. They have sent bills two or three times. I received the reports from the Pinkertons. They came sometimes every day and then sometimes they didn't for a few days. I got the report about finding the big stick and the pay envelope. I did not request the Pinkertons to keep the finding of the stick and the envelope from the police and authorities. We have little accidents almost every two weeks in the factory. There was one big accident about a year ago, a machinist, Gilbert, had his head bursted open in the metal department. That was about a year ago. The insurance company ordered us to clean up the factory about a week after Mary Phagan's death.

RE-DIRECT EXAMINATION.

Superintendent Pierce, of the Pinkertons, told me that his reports would be furnished to the police before they came to me.

TRUMAN McCRARY, (c.), sworn for the Defendant.

I am a drayman on the streets of Atlanta. I work for the National Pencil Company. I have hauled for them. I have drayed for them most every Saturday for the past three years. I would work on Saturday afternoons until half past three and sometimes as late as five. I would be sometimes there so late the shipping clerk would be gone. I have never found the front door locked on a Saturday afternoon. I have never seen Jim Conley watching there Saturday afternoon. I have never seen him guarding the door. I have never seen him around the factory at all Saturday afternoon. I have never found the doors to Mr. Frank's inner or outer office locked. Both doors have glass windows in them. Anybody could see through them. I have sometimes found Mr. Schiff working there with Mr. Frank on Saturday afternoon. I did not see Jim Conley at the factory April 26th. I did not tell him to go down in the elevator shaft and ease his bowels. I went into Mr. Frank's office about twelve o'clock on April 26th. Mr. Frank was there.

CROSS EXAMINATION.

I did not haul any for the pencil factory on April 26th. I took a sack of hay there. That was about 7:30. I didn't see Mr. Frank upstairs that time. I did not see Jim Conley at all that day. It may have been as late as 8:30 that I reached the factory that day. Mr. Frank was not there. I was paid sometime before 12 o'clock that day. The boxes are piled around in there pretty high around the elevator going down there. There are some pretty large ones, four or five feet high. They are piled around the stairway. I have never seen them use that door to the Clarke Woodenware space. I have used it once to haul out a lot of trash. No I have never seen Jim Conley sweeping up there Saturday afternoon. There was one Saturday afternoon that I didn't go up there. That was since Christmas. I think it was in April. I went up there every afternoon in January.

D. J. NIX, sworn for the Defendant.

I was office boy at the pencil factory from April, 1912, to October, 1912. I worked there every other Saturday until the first of September, and then every Saturday thereafter. I am 19 years old. Before September 1, I worked on Saturdays until between four and six o'clock. On Saturdays after September 1, I worked until between 5:30 and 6. I have never missed any days while I have been at the factory. On Saturday afternoons, Mr. Frank and Mr. Schiff would be there working. I would stay in the outer office. I never left the factory on Saturday afternoon. I have never known Mr. Frank to have any women in his office drinking or doing anything else.

CROSS EXAMINATION.

I never stayed there every Saturday afternoon in the summer months. Every other Saturday afternoon then I got off at one o'clock. No, I don't know anything about Mr. Schiff and Mr. Frank and others taking women down the alley on Forsyth St. and around the back door. He did not have any women in the factory when I was there, and I worked every Saturday after the first of September until the first of October. In the summer I worked every other Saturday afternoon.

FRANK PAYNE, sworn for the Defendant.

I was office boy last Thanksgiving day at the pencil factory. It was snowing that day. I am 16 years old. Mr. Schiff and Mr. Frank were working there in the office that day. Mr. Schiff sent me up on the fourth floor to straighten the boxes up. Jim Conley was there sweeping. He left the factory about 10:20. I left about 11. He had finished his work. I went by the office to get my coat. Mr. Schiff and Mr. Frank were still working. When I left I did not see Conley anywhere about the door. For two months

I worked at the factory on Saturday afternoons until 3:30 or four. Mr. Schiff and Mr. Frank would always be working in the office. I have never known him to have any women in there, or see any drinking going on. I would go to dinner about 1 or 2 o'clock. Mr. Frank would go about 12:30 to one and get back about three. I would stay in the inner office all the time. Mr. Schiff sat right across from me in the inner office. I would go to Montag's and stay about ten or fifteen minutes.

CROSS EXAMINATION.

I quit work at the factory seven or eight months ago to get a better job. Mr. Schiff was with Mr. Frank every Saturday afternoon I was there. I never went back at nights. I have never seen any beer bottles around there. I don't know whether Jim Conley came back after he left there at 10:30 on Thanksgiving Day. I saw him go down the stairs. I did not look for him as I went down. I did not notice him.

PHILLIP CHAMBERS, sworn for the Defendant.

I am 15 years old. I started working for them December 12, 1912, as office boy, at the pencil factory. I left there March 29, 1913. I stayed in the outer office. On Saturdays I stayed until 4:30 and sometimes until 5 o'clock. I never left before 4:30 on Saturdays. I would go to dinner about 1:30 and get back at 2. Sometimes on Saturdays I would be sent to Montag's for 15 minutes, to get the mail. I would sometimes go out to the Bell Street plant to get the payroll there. I would get back at 12 o'clock. I have there. I have never seen Dalton come in there. I have seen Jim Conley Mr. Frank never did have any women there. I never saw any drinking there. I have never seen Dalton come in there. I have seen Jim Conley sweeping there Saturday afternoon. Snowball would be in there once in a while. I have never known the front door to be locked on Saturday afternoon. After a certain time all the sweepers, including Conley and Snowball, had to leave the factory at noon. Mr. Darley gave them orders they could not sweep in the afternoon. After that I never saw any of them around there Saturday afternoon. I have never seen anybody watching the door on any Saturday that I was there, or any other day. I have seen Mr. Frank's wife come to his office once. Mr. Schiff would be helping him on some of the Saturdays that I would be there. I have never seen Mr. Frank familiar with any of the women in the factory. I have never seen him talk to Mary Phagan at all.

CROSS EXAMINATION.

Mr. Frank and I were good friends, just like a boss ought to be to me. I don't know anything about Mr. Frank's telling Conley to come around and not let Mr. Darley see him.

GODFREY WEINKAUF, sworn for the Defendant.

I am superintendent of the Pencil Company's lead plant. Beginning with July, 1912, up until the first week in January, 1913, I visited the office of the pencil factory every other Saturday, between three and five o'clock. I would stay there about two hours. I would find Mr. Holloway, Mr. Frank and Mr. Schiff there. I never saw any women in the office there.

CROSS EXAMINATION.

I never saw Jim Conley there at the factory on Saturday afternoon. I am sure I saw Holloway there on Saturday afternoon.

CHARLIE LEE, sworn for the Defendant.

I am a machinist at the pencil factory. I remember an accident to Duffy in the metal room. His finger was hurt on the eyelet machine, about October 4, 1912. It bled freely and the blood spouted out. There was a lot of the blood on the floor. He went down the hall to the office, by the ladies' dressing room. There was blood at that point. Gilbert also got hurt in the metal room last year. He was bandaged in the office also. In going from the metal room to the office, you go right by the steps.

CROSS EXAMINATION.

I have been with the company two years and four months. Two weeks ago my wages were raised 2 1-2 cents an hour. Mr. Darley raised them. I have not talked to anybody about what I was going to swear in this case. I did not see Gilbert get hurt up there. I saw him after he was dressed. Duffy was hurt in the metal room on the machine opposite Mary Phagan's machine. The pencil company took a written statement from me, signed by me, to keep the fellow from suing the company. I saw my signature this morning. I have never told you I signed that statement. The blood was streaming from his finger and dropped all over the floor. The whole floor was bloody. He came out down the hall to the office. He stopped about in front of the dressing room, about three steps from the water cooler and asked me which office to go in. The blood was streaming from his finger while he was standing there, about eight or ten seconds. It dropped just in one place, holding his hand like this. It wasn't cleaned up, they only sweep the floor once a week, that's all the cleaning it gets. I never noticed it after that time. I have never taken any notice whether you can see that blood there now. Duffy was cut right near where those chips were taken up on the floor. It might have been the same place. It was right near there. I wouldn't say it was the same spot or not.

ARTHUR PRIDE (c), sworn for the Defendant.

I worked on the second floor of the factory. On Saturdays I work all over the factory, doing anything that is necessary. Beginning with July of last year I have not missed a single Saturday afternoon at the factory. I would work until about half past four. I have never seen any women come up there and see Mr. Frank, or any drinking going on there, or seen Jim Conley sitting and watching the door. The employees used the back stairs leading from the metal room to the third floor. You can hear the elevator running if the machinery is not running. It makes a roaring noise and you can hear it on any floor. The motor makes a noise, and you can see the wheels moving on the fourth floor. I know Jim Conley's general character for truth and veracity; it is bad. I would not believe him on oath. I wouldn't believe him on oath, because him and his whole family lied to me.

CROSS EXAMINATION.

I never associated with Jim. No, I aint a high-class nigger, but I am a different grade from him. He had three or four watches and I bought one and I made him show me a receipt marked paid in full, and he sold me the watch and after that they come and got him to put him in jail about it, and then his whole family came and said if I would give the watch back, that they would pay the debt, and I gave the watch back and after they had released him, the family just said they done that to get the watch and they were done with it, and there wasn't any way for me to get it, but he swore to me it was paid in full. I haven't heard anything else said against him. I never paid any special attention to the elevator during business hours, but you could hear it all the time when the factory wasn't running. It didn't shake the building. You could hear the elevator when the wind blows. You could hear the elevator if the machinery wasn't running even if they are hammering.

RE-DIRECT EXAMINATION.

I haven't missed a single day in five years, that I have been working with the factory. Yes, I say that Jim Conley forged a receipt on me for a watch. I let him have $4.50 on it, and I never got my money back.

DAISY HOPKINS, sworn for the Defendant.

I am a married woman. I worked in the factory from October, 1911, to June 1, 1912. I worked in the packing department on the second floor. Mr. Frank never spoke to me when he would pass. I never did speak to him. I've never been in his office drinking beer, coca-cola, or anything else. I know Dalton when I see him. I never visited the factory with him. I never have been with him until I went to his house to see Mrs. Taylor, who lived with him then. That was the only place I have ever seen him. I never have been to the factory on Saturday or any other day. I never in-

troduced him to Mr. Frank. There isn't a word of truth in that. I have never gone down in the basement with this fellow Dalton. I don't even know where the basement is at all. I have never been anywhere in the factory, except at my work.

CROSS EXAMINATION.

I have never been in jail. Mr. W. M. Smith got me out of jail. Somebody told a tale on me, that's why I was put in jail. I don't know what they charged me with; they accused me of fornication.

RE-DIRECT EXAMINATION.

I never was tried. I never had to pay anything except my lawyer's fee, which I paid to Mr. Wm. Smith. I never was taken to court.

MISS LAURA ATKINSON, sworn for the Defendant.

I have been in Mr. Dalton's company three times. I never met him at the Busy Bee Cafe. I have never walked with him to or from the pencil company. I have never walked home with him.

CROSS EXAMINATION.

I worked at the National Pencil Factory two days last month. I have known Mr. Dalton six months. I have been in his company three times. I did not know Daisy Hopkins.

MRS. MINNIE SMITH, sworn for the Defendant.

I work at the pencil factory. I do not know C. B. Dalton. I live at 148 S. Forsyth St. I have never met Dalton or walked home with him. I don't know the man. I know Mr. Frank. I have spoken to him six times in the four years and a half that I worked there.

CROSS EXAMINATION WAIVED.

V. S. Cooper, W. T. Mitchell, O. A. Nix, Samuel Craig, B. L. Patterson, Robert Craig, Ed Craig, T. L. Ambrose, J. P. Bird, J. H. Patrick and I. M. Hamilton. All sworn for the defendant. Testified that they lived in Gwinnett or Walton county; that they used to know C. B. Walton before he left Monroe in Walton county; that his general character for truth and veracity is bad, and that they would not believe him on oath.

R. L. BAUER, sworn for the Defendant.

During the summer of 1909 and 1910, I worked at the National Pencil Company on Saturdays. Since that time I have worked off and on at the factory on Saturdays doing extra work. I have also been up to the office

Saturday afternoons, frequently during the past twelve months. I was there while Mr. Schiff was off on his trip. I was up at the office on the Saturday afternoon before Mr. Schiff went away. Mr. Holloway, Mr. Schiff, Mr. Frank and the office boy were there. I have never seen any women in Mr. Frank's office on the Saturdays I have been there.

CROSS EXAMINATION.

I have always found Mr. Schiff there on Saturday afternoons with the exception of the time when he was off on his trip during January and February. The only specific Saturday afternoons that I remember being at the factory, was the Saturdays during the month of January, 1913, when Mr. Schiff was off on the road. Got to the factory at three o'clock on the first Saturday in January. I went through the front door of the factory. It was unlocked and the door was open. Mr. Holloway was on the second floor in his usual place. Mr. Frank was in his office sitting at his desk. I didn't see any stenographer. I stayed there until nearly four o'clock. I have been to the factory on an average of two Saturdays every month. On the second Saturday in January, I got to the factory at three o'clock. Mr. Frank, Mr. Holloway and the office boy were there. The front door was open. The inside door was open. Mr. Frank was at his desk, in the inside office. I stayed there about a half or three quarters of an hour, about half past three or a quarter to four. I talked to Mr. Frank about ten minutes, and the rest of the time I just noticed things around the office. I saw Mr. Frank at the factory the third Saturday in January I was there. I don't know who else was there. I went to inquire about Mr. Schiff who was in the Ohio flood. Mr. Frank was in his office. I remember seeing Mr. Frank in his office on the fourth Saturday in January I called there. He was working in his office. I don't remember seeing anybody else there.

GORDON BAILEY, sworn for the Defendant.

I work at the factory. I am sometimes called "Snowball." I never saw Jim Conley talk to Mr. Frank the Friday before the murder. I have never, at any time, heard Mr. Frank ask Conley to come back on any Saturday. I have never seen Mr. Frank bring in any women into the factory. I have never seen Jim Conley guarding or watching the door. I have seen Jim take newspapers and look at it, but I don't know if he read them or not. I have seen him have papers at the station house like he was reading them.

CROSS EXAMINATION.

I was arrested Monday, April 28th, about half past nine. I saw Mr. Frank before I was arrested. He was on the second floor.

HENRY SMITH, sworn for the Defendant.

I work at the pencil factory in the metal department. I work with Barrett. He has talked to me about the reward offered in this case. He said it was $4,300, and he thought if anybody was to get it, he was to get it, because he found the blood and hair, and he said he ought to get the first hook at it. He said it six or seven different times.

CROSS EXAMINATION.

He would come out of the room counting it off on his hands. He did that two or three times and sort of laughed, counting that imaginary money.

MILTON KLEIN, sworn for the Defendant.

I saw Mr. Frank last Thanksgiving evening at a dance given by the B'nai B'rith at the Hebrew Orphan's Home. I also saw him that same afternoon between half past four and six o'clock. The dance lasted from eight to half past eleven. Mr. Frank helped Mr. Copelan and myself give the dance. We were the committee in charge.

CROSS EXAMINATION.

I was down at the jail to see Mr. Frank when the detectives brought Conley down there. I sent word down that Mr. Frank didn't care to see Conley, that he didn't care to see anyone at that time. He knew that Conley was there. I was the spokesman for Mr. Frank. He wouldn't see any of the detectives either. Mr. Frank said that he would see Conley only with the consent of his attorney, Mr. Rosser. He said for them to send and get Mr. Rosser. Frank's manner was perfectly natural. He considered Conley in the same light that he considered any of the city detectives. He said he would not see any of the city detectives, or Mr. Scott without the consent of Mr. Rosser. He considered Scott as working for the city. He included Scott with the rest of the detectives. Mr. Frank looked very much disappointed because the grand jury had just indicted him when he had expected to be cleared. Mr. Frank has a great many friends who constantly visited him in jail.

NATHAN COPLAN, sworn for the Defendant.

I remember last Thanksgiving Day was a very disagreeable day. I don't remember whether it snowed. The B'nai B'rith is a charitable organization here composed of young men. They gave a dance out at the Jewish Orphans Home Thanksgiving evening. Mr. Frank had charge of it. Mr. Frank and his wife were there. I got there about eight o'clock. They were there at that time. They stayed there until about ten o'clock.

JOE STELKER, sworn for the Defendant.

I have got charge of the varnishing department at the pencil factory; about sixty people work under me. I saw the spot that Mr. Barrett claimed he had found in front of the young ladies dressing room. It looked like some one had some coloring in a bottle and splashed it on the floor. Chief Beavers asked me to find out whether it was varnish or not. I saw the white stuff on it. It looked like a composition they use on the eyelet machine or face powder. They carry that stuff around in buckets in the metal room. It gets spilled on the floor and looks something like face powder. The spots look like some varnish. The floor in the metal room is swept once a week. It is never washed. The spots look as if it had been made three days before. I would not have noticed it had not my attention been called to it. The floor is a greasy one. The white stuff looked like it come from the eyelet machine. The alleged blood spots could have been made with a transparent red varnish. If it is that kind of varnish it will soak in and look something like blood. If it is pigment it will show up right red. They use this kind of varnish in bottles in the metal room. I tried a stain on the floor there and it looked just like that spot that Barrett found. Everybody was nervous and shaky on Monday. The varnish I experimented with soaked in the floor and looked the same as the blood spot. I have seen paint all over the floor, it splashes out of the bucket and they just sweep it up. I was at the undertaker's Sunday afternoon at two o'clock when Frank was there. Mr. Quinn, Mr. Ziganke, Mr. Darley and Mr. Schiff were there. I looked at the body with Mr. Ziganke. No one else was present. I have known Jim Conley about two years. His general character for truth and veracity is very bad, therefore, I would not believe him on oath.

CROSS EXAMINATION.

Frank came from Brooklyn. I am no kin to Mr. Frank or any of his people. I do not belong to his society. I have never heard anything said against Conley, except since Frank was indicted. I also heard he was in the chaingang. I saw him in the chaingang on Forsyth Street. I saw him with shackles on. I don't know what he was sent up for. I sent him out for 25 cents worth of beer and he filled it half full of water and he denied doing it. I could tell it was filled up by the taste of it. I know he did it because he had a suspicious look about him. That was last summer. Ziganke helped me drink beer. That's about all the drinking I have ever seen there. At the undertaker's Mr. Frank had on a dark suit of clothes. He had no raincoat with him. We went to the undertaker's for the purpose of seeing the body. Mr. Frank did not ask me to meet him there. I went in to view the body and then came out. Mr. Frank came there ten minutes after we got there. While we were in there Mr. Frank had come and was speaking to Mr. Darley. I don't know how long I was sitting there. I was too nervous to know. I felt nauseated and nervous before I went in to see the body. When I went

in to view the body Mr. Frank was standing outside talking with Mr. Schiff and Mr. Darley. Mr. Frank went in to view the body later on, ten or twenty or thirty minutes later. I was sitting down waiting for the rest of the men while he went there. Ziganke was sitting with me. I don't know whether Mr. Frank went in the room to see the body or not. Mr. Frank was nervous when he got there, and when he came out just the same. Just the same expression he has got on his face now. The room was full of people when Mr. Frank went in there. I went down to the undertaker's to see who was murdered. I did not know that she had already been identified as Mary Phagan. I only heard when I got to the undertaker's. I didn't see the impress of the cord on the neck. I just took one look and then came right out again. I saw the discoloration of the eye and that bruise and I sort of felt sick and I walked right out.

RE-DIRECT EXAMINATION.

I am a German and I am accustomed to drinking my beer. I have never trusted Jim Conley after he put water in my beer.

HARLEE BRANCH, sworn for the Defendant.

I work for the Atlanta Journal. I had an interview with Jim Conley on two occasions. On May 31, he told me he didn't see the purse of this little girl. He said that it took about thirty-five minutes after going upstairs until he got out of the factory. He said he finished about 1:30 and then went out. He said that Lemmie Quinn got into the factory about 12 o'clock and remained about 8 or 9 minutes.

CROSS EXAMINATION.

I am sure about his saying he saw Lemmie Quinn at the factory at that interview. He was in jail when I had that interview. It was a few days after he went through the factory. As to Conley's movements at the factory, I was there a few minutes after twelve. Conley arrived there about 12:10 or 12:15. The detectives told him what he was there for. After a few minutes brief conversation, Conley started telling his story. When he reached the point at the rear left side of the factory, he described the position of the body, and described what he did with the body, and how Mr. Frank helped him. He enacted the whole story and talking all the time. After he had reached the point of disposing of the body, and writing the notes, I found it was time for me to go back to the office and I left. Conley began the enactment of the story a few minutes after he got there, which was a quarter past twelve, and he went through very rapidly. We had to sort of trot to keep behind him. I left the factory at 1:10. In estimating the time Conley dedevoted to acting and how much to telling the story would be a guess. There is no way of disassociating the time between the two. I didn't attempt to do that. It would be a pure guess because I see no way of dividing the time. I

should say that perhaps he was talking and not acting for about fifteen minutes. Of course he was talking all the time that he was acting. I did not say that I thought he was talking half of the time.

RE-DIRECT EXAMINATION.

In going through his performance he walked very rapidly. We were almost on a trot behind him. I was at the factory fifty minutes while he enacted his story. I left him after he had written one note in Mr. Frank's office. He wrote the note very rapidly. It took him about two minutes. He didn't stay in the wardrobe over a minute. He just got in, closed the door and got right out. In approximating the time of his performance I gave a minute to his staying in the wardrobe and two minutes to writing the one note. If you add six minutes to writing the other notes and eight minutes to the time he said he stayed in the wardrobe, that would be fourteen minutes added to the fifty minutes, which would be sixty-four minutes for the time of the performance. If you deduct the fifteen minutes which I say he was talking, would leave forty minutes net which he took to enact the story.

RE-CROSS EXAMINATION.

That is just an estimate. The only time I had was the time I left my office and the time I got back. Conley got to the factory 12:15 and I left there between 1:05 and 1:10. I saw Conley pick up a paper in the newspaper room and he looked like he was reading it. It had pictures on the front page and I judge he looked at them first, because afterwards he folded it. He had several minutes while I was telephoning.

JOHN M. MINAR, sworn for the Defendant.

I am a newspaper reporter for the "Atlanta Georgian." I visited George Epps Sunday night, April 27th. I went there to ask him and his sister when was the last time either of them had seen Mary Phagan. George Epps and sister were both present. I asked them who had seen Mary Phagan last, and the little girl Epps said she had seen her on the previous Thursday. George Epps was standing right there and he said nothing about having seen her Thursday. He said he knew the girl, that he had ridden to town with her in the mornings occasionally when she went to work. He said nothing as to having seen the girl on Saturday and coming in on the car with her. I directed my questions to both the children.

CROSS EXAMINATION.

I was not seeking evidence for the defendant. There was no defendant at that time. This was on Sunday, the day the body was found. I have been working under the direction of Mr. Clofein, city editor. Clofein visited Frank in jail. At that time Mr. Frank had not been mentioned in connection with

the case at all. At the time of the interview with the little girl and the little boy they were both in the room with their father. Their father took me out there.

W. D. McWORTH, sworn for the Defendant.

I am a Pinkerton detective. I worked for fifteen days on the Frank case. For three days I took statements from the factory employees and on May 15th, I made a thorough search of the ground floor. I found near the front door on the ground floor, stains that might or might not have been blood. All the radiators in the factory had trash, dirt and rubbish behind them. Behind one of the radiators near the Clark Woodenware place, where the partition is, I found much trash, behind the trap door, up against the partition, and on top of the radiator were pipes and about eight or nine lengths of that rope that they tie pencils with. One length—the only one that came loose—was pulled straight away from the radiator and I saw signs of it having been cut recently with a sharp knife. Among the trash I found papers there dated February, 1911. That rubbish had been there some time, because the rest of the floor around there was clean. About six or eight inches from the left side of the radiator, there was a small pile of dirt and sweepings. When I took Mr. Whitfield, another Pinkerton detective, back there to show him the spots I had found, we looked behind the radiator and as I was sticking my hand around the dust and dirt, I discovered a pay envelope. (Defendant's exhibit 47). It was covered with granulated dust. I opened it and looked at it and saw the number 186 there. And the first initials of the name an "M" and a "P." I handed it to Whitfield and said: "Take it to the door and see what it is." It was pretty dark in there. Right in the same corner, I also found a club (defendant's exhibit 48). It was standing up on the doorway with some iron pipes. The club is used by the drayman as a roller to roll boxes and barrels on. The iron pipes there were used for the same purpose. The stains on the club were either paint or blood, I don't know which. I found this little stick back of the front door. (State's exhibit L).

CROSS EXAMINATION.

I saw the spots in front of the ladies dressing room. It just looked as if the floor had been stained. There are half a dozen places. There was no difference in appearance between the dark spots by the water cooler and the other spot in the metal room. I did not make any special search on the office floor for a pay envelope. I was looking for the mesh bag under the instructions of Mr. Scott. Mr. Whitfield joined me in the search. In my report to the Pinkertons I reported that I found what I took to be blood stains around the trap door. They were dark discolorations. There were seven of them, averaging about seven inches in diameter. The gas was turned on and I used matches in examining them. I had found the stains first and

while Mr. Whitfield and I were back there looking behind the radiator, we found the cord and twine about the radiator. Whitfield was examining the stains when I picked up the envelope which was all rolled up. I found the envelope about three o'clock on May 15, within eight or ten inches of the trap door. The name was written in lead pencil. So far as I know the envelope has not been changed any since I saw it last. I did not see any "5" on the envelope. We went out to see Mr. and Mrs. Coleman on May 17th, and showed them the envelope. There was no "5" on it at that time. There was no conversation about any five. I had talked to Mr. Schiff before I saw Mr. Coleman. In my report I stated that the stains might have been blood as well as stains. I reported the finding of this club to the police 17 hours after finding it. And within four hours thereafter, I had a conference with them about it. I never showed that whip to anybody (State's exhibit L) I didn't show it to Mr. Black. I showed him the club and the envelope. I turned them over to Mr. Pierce, the superintendent of our agency. I don't know where he is, nor Whitfield either.

JOHN FINLEY, sworn for the Defendant.

I was formerly master machinist and assistant superintendent of the pencil factory. I have known Mr. Frank about five years. His character was good.

CROSS EXAMINATION.

I am now superintendent for Dittler Bros. They are not related to the Franks. I left the pencil company about three years ago. I have never heard anything about women going up in the factory after work hours. Mr. Frank and I usually left together about six o'clock. Mr. Frank went to lunch usually about one o'clock. I would sometimes work at the factory all Saturday afternoon. I did that most of the time that I was there. The elevator box was kept closed when I was there. I generally kept one key and we kept one key in the office. The rule was to lock it and keep one key in the office. It has been left unlocked. The elevator doesn't make much noise that I know of. It doesn't shake the building; not when I was there. The wheels on the top floor are closed in on the fourth floor. You might be able to see them on the fourth floor if you stand on the west side of the elevator. They didn't make any noise. The power box don't make any noise.

RE-DIRECT EXAMINATION.

The motor makes a tremendous noise. You can hear it and the shafting anywhere in the building.

A. D. GREENFIELD, sworn for the Defendant.

I am one of the owners of the building occupied by the Pencil Company on Forsyth St. I have owned it since 1900. When we bought the building

it was occupied by Montag Bros. They used it as a manufacturing plant. The Clarke Woodenware Company subleased part of the first floor from Montag Bros. They used the front door on Montag Bros. in going in there. We have not put in any new floor on the second story of the building. I have known Mr. Frank four or five years. His character is good.

CROSS EXAMINATION.

I have come in contact with Mr. Frank in business and I have heard my associates talk about him. I have seen him twenty or thirty times during the past five years. I have not contributed anything to any fund for his defense. I have not heard of any such fund.

DR. WM. OWENS, sworn for the Defendant.

I am a physician. I am also engaged in the real estate business. At the request of the defense I went through certain experiments in the pencil factory to ascertain how long it would take to go through Jim Conley's movements relative to moving the body of Mary Phagan. I kept the time while the other men were going through with the performance. I followed them and kept the time. Mr. Wilson of the Atlanta Baggage Co. also kept time with me. Mr. Brent and Mr. Fleming enacted the performance. The performance enacted was as follows: "12.56 o'clock, Conley goes to cotton box from elevator stairs, gets piece of cloth, takes cloth back to where body lay and ties it just like a person that was going to give out clothes on Monday, ties each corner, draws it in and ties it, ties the four corners together, and runs right arm through cloth, went to put it up on his shoulder and found he couldn't get it up on shoulder, it was too heavy, and he carried it that way on his arm, when close to little dressing room in the metal department, he let the body fall; he jumped, and he was scared and said: "Mr. Frank, you will have to help me with this girl, she is heavy;" Frank comes and runs down from the top of the steps, and after he comes down there he caught her by the feet, and Conley laid hold of her by the shoulders, and when they got her up that way, they backed, and Frank kind of put her on Conley, Frank was nervous and trembling, too, and after walking a few steps, Frank let her feet drop; then they picked her up and went to the elevator and sat her on the elevator, and Frank pulled down the cords, and the elevator wouldn't go, and Frank said: "Wait, let me go in the office and get the key;" and Frank goes in the office and gets a key and comes back and unlocks the storage box, and after that he started the elevator down; the elevator went down to the basement, and Frank said, "Come on," and he opened the door that led direct to the basement in front of the elevator, and carried it out and laid her down, and Conley opened the cloth and rolled her out on the floor, and Frank turned around and went on up the ladder, and Conley carries the body back to where the body was found; Conley goes around in front of the boiler, and notices her hat and slipper and a piece of ribbon; and Conley said: "Mr.

Frank, what am I going to do with these things?'' and Mr. Frank said: ''Leave them right there;'' and Conley threw them in front of the boiler; Conley goes to the elevator, and Frank come on up and stepped off at the first floor, and Frank hits Conley a blow on the chest which run him against the elevator; Frank stumbles out of elevator as it nears second floor, Frank goes and washes his hands, and comes into the private office, and they sit down in the private office, Frank rubbing his hands on the back of his hair; Frank happened to look out of the door, and said: ''My God, there is Emma Clarke and Corinthia Hall;'' Frank runs back; Frank says: ''Come over here, Jim. I have got to put you in this wardrobe;'' Frank puts Conley in wardrobe; Conley stayed there quite a while; Frank: ''You got in a tight place;'' Conley: ''Yes, sir;'' Frank: ''You did very well;'' Frank goes in the hall and comes back and lets Conley out of the wardrobe; Frank made him sit down; Conley sits down; Frank reaches on table and gets a box of cigarettes and matches, takes out cigarette and match, and hands Conley box of cigarettes; Conley lights cigarette, and commenced smoking, and hands Frank back box of cigarettes, Frank puts cigarettes back in his pocket and takes it out; Frank: ''You can have these;'' Conley reaches over and takes box of cigarettes and sticks them in his pocket; Frank: ''Can you write?'' Conley: ''Yes, sir, a little bit;'' Frank takes out his pencil and sits down; Conley sits down at table; Frank dictates notes, Conley taking paper that Frank gave him; Conley writes one note; Frank says, ''Turn over and write again;'' Conley turns over paper and writes again; Frank: ''Turn over again;'' Conley turned over again and writes on next page; Frank: ''That is all right.'' Frank reaches over and gets green piece of paper and tells Conley what to write; Conley writes, Frank then lays it on his desk, looks at Conley smiling and rubbing his hands, runs his hands in his pocket and pulls out a roll of bills; Frank says: ''There is $200.00.'' Conley takes the money and looks at it a little bit; Conley: ''Mr. Frank, don't you pay another dollar when that watchman comes, I'll pay him myself.'' Frank: ''All right, I don't see what you want a watch for, either; that big fat wife of mine, she wanted me to buy her an automobile, and I wouldn't do it; (pause) I will tell you the best way. You go down in the basement; you saw that package that is on the floor in front of the elevator; take a lot of that trash and make up a fire and burn it.'' Conley: ''All right, Mr. Frank, you come down with me and I will go.'' Frank: ''There is no need of my going down there, and I haven't got any business down there.'' Conley: ''Mr. Frank, you are a white man and you done it, and I am not going down there and burn it myself.'' (Pause). Frank: ''Let me see that money.'' Frank takes money and puts it in his pocket. Conley: ''Is this the way you do things?'' (Pause) Frank turned around in his chair, looks at money, and looks back at Conley, and throws his hands and looks up. Frank: ''Why should I hang, I have wealthy people in Brooklyn.'' Conley: ''Mr. Frank, what about me?'' Frank: ''It is alright about you, don't you worry about this thing; you must go back to your work on Monday, like you have never known anything, and keep your mouth shut,

if you get caught, I will get you out on bond and send you away." Conley: "That is all right, Mr. Frank." (Pause) Frank: "I am going out home; can you come back this evening and do it?" Conley: "Yes, sir, I am coming to get my money." Frank: "Well, I am going home to get my dinner now; you come back here in about forty minutes from now; it is near my dinner hour and I am going home to get my dinner;" picks up money. Conley: "How will I get in?" Frank: "There will be a place for you to get in all right, but listen, if you are not coming back, let me know, and I will take these notes and put them down with the body." Conley: "All right, I will be back in forty minutes." Conley looks at Frank, Frank looks up. Then Conley gets up and stands by chair and looks down at Frank; Frank grabs scratch pad from typewriter table and starts to make memorandum upon paper, but his hand trembles so he couldn't; Frank gets up to go. Frank: "Now, Jim, you keep your mouth shut, do you hear?" Conley: "All right, I will keep my mouth shut, and I will be back here in forty minutes." Conley goes out. It took us eighteen and a half minutes by the watch to go through the movements and conversation (as above set forth), which Conley says took place between him and Frank on Saturday, April 26th. The experiment was made as rapidly as the dialogue could be read. The eighteen and a half minutes did not include the eight minutes that Conley said he was in the wardrobe and also the time it took him to write the notes. Including the eight minutes he remained in the wardrobe and the ten minutes estimated for writing the notes, the whole performance would have taken 36 1-2 minutes.

CROSS EXAMINATION.

We started the experiment at the entrance of Mr. Frank's office at the top of the stairs. We had the copy of Conley's movements and the conversation in our hands all the time. Mr. Haas and Mr. Wilson read the directions. Mr. Brent took the part of Conley. As they would read out the things that Conley did, Mr. Brent would do them. I went with him all the time. I don't think the giving of the directions lengthened the time very much, because the directions were being given while the enactment of each scene was going on. It wasn't done slowly and deliberately. When they dropped the body, those knots did not come untied. The sack that they carried, to represent the body, contained wet sawdust and cinders, and was supposed to weigh 107 pounds. It was tied up tight. There was only one point in the enactment where there might have been a loss of time, and that was where Mr. Frank was supposed to have paused in the office, and I suppose five or ten seconds were lost there. Mr. Fleming took the part of Mr. Frank. When they took the body down on the elevator, Mr. Brent, representing Conley, opened the cloth and rolled the corpse out on the floor, on the cloth, then dragged her back to where the body was found. Mr. Brent dragged it back. He simply picked up the sack by the end and pulled it along. He dragged the sack with the enclosed sawdust weighing about 107 pounds, back.

Mr. Brent enacted everything that was supposed to have been done by Conley. Mr. Fleming played the part of Mr. Frank. Neither one of these gentlemen are connected with the pencil factory. In putting the cloth around the corpse I think they actually gained time. They did it really faster than it could have been done. Mr. Herbert Haas did most of the reading of the directions. There were no feet hanging out of the sack like the body would. As to whether it isn't much easier to handle the sack as it was than it would be to handle a human body in a sack, with the head and shoulders and arms exposed at one end and the feet and the legs up to the knees exposed at the other, I believe you could pick up a body just as quickly as you could a sack. Corpses are pretty hard to handle. Fleming acted nervous and agitated like Frank was supposed to have done. He didn't tremble. I think he gained time there. In picking her up and putting her on the elevator I think they did that fully as quickly as a person could have taken a body, probably faster. I don't think Mr. Fleming really unlocked the elevator box like Mr. Frank was supposed to do it. He went through the motion. It probably takes longer to actually unlock it than it would to go through the motion of doing it. He probably gained time there. In going down the elevator, I think Mr. Schiff ran the elevator. He was in the building when we got there and let us in. He ran it because none of the rest of us knew how to run it. He brought us back up again in the elevator. That's the only part he took in the performance. Mr. Brent, impersonating Conley, carried the body out of the elevator. He is a large man and had no trouble carrying 107 pounds. Whatever the instructions called for we followed to the letter. Mr. Wilson and I had the paper in our hands and checked Mr. Haas as he read the directions. These directions furnished us were supposed to be Conley's testimony on the stand. It was furnished to us as a copy of the evidence as given by Conley. When we got to the basement I am not sure whether Mr. Brent impersonating Conley, carried the body or dragged it. It could be dragged as quickly as it could be carried. I had my eyes on the paper all the time. Mr. Brent didn't get in the wardrobe, he was too big. He went to wardrobe and we eliminated the time he was supposed to be there. A small man could have got in it. They did not write out the notes. We eliminated that also. Staying in the wardrobe and writing the notes was not included in the eighteen and a half minutes it took. It was said that Conley's testimony was to the effect that he was in the wardrobe eight minutes. The notes were supposed to have taken from 12 to 16 minutes to write, but we didn't add that in our estimate. Mr. Wilson and I set our watches together when the performance started. The only thing that we omitted from the entire performance was writing the notes and concealing Conley in the wardrobe. Yes, I wrote that letter. I wrote it partially at the instance of myself, and partially at the instance of Mr. Leonard Haas, my personal attorney.

RE-DIRECT EXAMINATION.

I wrote that letter as a matter of conscience. It is as follows: "To the Grand Jury of Fulton County, W. D. Beattie, foreman. Gentlemen: Among a number of people with whom I have discussed the unfortunate Phagan affair, I have found very few who now believe in the guilt of Leo M. Frank, and I have felt a deep conviction growing in my heart that a terrible injustice might be inflicted upon an innocent man. While we are all still mystified by the published evidence now at command, I am impelled by a sense of duty to ask that you carefully weigh the testimony of all persons connected with the crime, and the accumulating evidence, and if further indictments are warranted, that the Honorable Body, of which you are the foreman, will not hesitate to find them. If I am exceeding the privilege which perhaps might be accorded citizens in thus addressing your Honorable Body, it is your privilege to ignore what I have said. Whatever may be your conclusion in the matter, I wish to assure you in thus addressing you, that I am discharging a duty which has weighed heavily on my conscience, the performance of which I could not forego. I do not even know Mr. Frank, and have no personal interest in the case whatever. Very truly, your fellow-citizen, William Owens." The pantomine that we enacted at the factory was the story as told by Jim Conley on the stand.

ISAAC HAAS, sworn for the Defendant.

I know Leo M. Frank for over five years. His character is very good. I did not hear my telephone ring on Sunday morning, April 27th. My wife heard it. The telephone is twenty-two feet from my bed.

CROSS EXAMINATION.

My wife waked me up when she answered the telephone.

A. N. ANDERSON, sworn for the Defendant.

I work at the Atlanta National Bank. That is the original pass-book of Leo M. Frank (Defendant's exhibit 50).

CROSS EXAMINATION.

I don't know that that's the only bank account that he had. He may have had others. Yes, the pencil company does business with the Atlanta National Bank. I don't know anything about how much money they had on April 26. Mr. Frank's bank book was balanced August 11. These are all the checks that he drew (defendant's exhibit 51) during April.

RE-DIRECT EXAMINATION.

These cancelled checks are the ones that have been paid since April 1, 1913. Mr. Frank had drawn no others since then.

RE-CROSS EXAMINATION.

On the first of April he had $111.13, on the 18th of April he deposited $15.00. That is all he deposited that month, and these checks were drawn against that $111.13 and $15.00.

R. P. BUTLER, sworn for the Defendant.

I am the shipping clerk of the pencil company. I am familiar with the doors leading into the metal room. They are wooden doors, with glass windows. There is no trouble looking through those windows into the metal room, even when the doors are closed. The glass in the door is about fifteen inches by eighteen inches. Any one of ordinary height can see through them easily.

CROSS EXAMINATION.

The doors are six feet wide together. The passageway from the elevator back to the metal room is ten feet wide with the exception of that part where we have some boxes piled up, where it is about six feet wide. The boxes go to the ceiling on the one side. It is not particularly dark there. I measured the width of the metal room doors. They were six feet wide exactly from jamb to jamb. The doors are usually open. If any one came up the stair case and turned to the office, they could see through the metal room doors. The floors of the metal room are very dirty. I don't know if the windows are clean, but you can see through them.

I. U. KAUFFMAN, sworn for the Defendant.

I made a drawing of the Selig residence on Georgia Avenue, in this city, showing the kitchen, dining room, the reception room, parlor and passageway between the kitchen and dining room. The mirror in the dining room is in the sideboard as shown on the plat (defendant's exhibit 52). It is fourteen feet from the kitchen door to the passageway in the dining room and the passageway is a little over two feet. Standing in the back door of the kitchen room against the north side of the door, I could not see that mirror, because of the partition between the passageway and the dining room. On the south side of the kitchen door you would have less view than on the north side and could not see the sideboard wherein the mirror is located at all. It is 175 feet from the Selig home to the corner of Washington and Georgia Avenue and 271 feet from the Selig home to corner of Pulliam St. and Georgia Avenue, as shown on the plat (Defendant's exhibit 53). I made a plat of the National Pencil company plant on Forsyth St. (Defendant's exhibit 61). The page one of this plat is the basement. Page two is the first floor; the dimensions of the elevator shaft are six by eight and back of the trap door, as shown on the plat, is a ladder going to the basement. The size of the trap door is 2 feet by 2 feet and 3 inches. It is 136 feet from the elevator

shaft to the place where the body of the young lady is said to have been found, and 80 feet from the front of the elevator shaft to the trash pile and 90 feet from the elevator shaft to the boiler, and 116 feet from the elevator shaft to the colored people's toilet. It is 135 feet from the elevator to the back stairway. The chute as shown on the page 2 of the plat is five feet wide and 15 or 20 feet long. It empties upon a platform in the basement about eight or ten feet from the back steps and about 32 feet from where the body is said to have been found. The back door is 165 feet from the elevator and the total length is 200 feet. I saw no furniture, except a bunk with old dirty sacks, which were very filthy. The floor of the basement is dirt and ashes. The trash pile is 57 feet from where the body was found and it is 21 feet from where the body was found to the colored toilet, and 42 feet from where the body was found to the back door. The angle from the colored toilet to where the body was found is 43 degrees and the partition in the basement cuts off the vision. I should say that it would cut off about half of the body. It is very dark in the basement. These diagrams are accurate, made according to accurate instruments. On the first floor there is an open areaway, extending to the west end of the building. It has a door about five feet wide. There are two toilets in this open areaway, about 90 feet from the front. This part of the first floor is directly above where the young lady's body was found. The size of the packing room is shown on page 2 of the plat, is about 33 by 80. The inner office of Mr. Frank is 12 1-2 by 17 1-2. When the safe is open, you can see nothing from the inner office to the outer office, or the outer office into the inner office, unless you stand up, and the safe is about 4 1-2 feet high. A person five feet and 2 inches tall could not see over the safe. There are no shades in the windows and a person on the opposite side of the street could look into the office. It is 150 feet from Mr. Frank's desk to the dressing room. There is no view from Mr. Frank's desk to the stairway to the first floor. Looking from Mr. Frank's desk towards the clocks you can see about one fourth of the east clock. You can not see the bottom of the stairway which leads from the second to the third floor. The doorways in the metal rooms are about six feet wide. They have glass in them. It is ten feet from the door to this dressing room. It is 26 feet from the dressing room to the place marked "lathe," and 37 feet from the lathe to the point where Conley said he found the body. It is 19 feet from the place where Conley found the body to the ladies' toilet.

CROSS EXAMINATION.

There are ashes and cinders along the walk in the basement. Mr. Schiff showed me the point where the body was found. I made every calculation from the point that Mr. Schiff showed me. I made my diagrams within the last month. About two feet of the wall prevents seeing from the desk in Mr. Frank's office to the stairway. You can only see a part of the east clock and doesn't take in the west clock at all.

RE-DIRECT EXAMINATION.

There will be no difficulty about one person going down the scuttle hole back of the elevator.

RE-CROSS EXAMINATION.

If the Washington St. car had passed the nearest corner, it would be at Pulliam and Georgia Avenue.

FURTHER EXAMINATION.

Sitting near the back door, he could not see the mirror.

FURTHER EXAMINATION.

I do not know what the arrangement was in the Selig home on April 26.

J. Q. ADAMS, sworn for the Defendant.

I am a photographer. I took photographs of the Selig home at 68 E. Georgia Avenue from the inside and the outside of the back door, looking toward the passageway that leads in the dining room. The door into the dining room was open, for me. This view (Exhibit 62) is view made from the outside of the rear door. I was about three feet outside of the door. The picture does not extend to the mirror, or the sideboard. You could not see them from the outside. This (Exhibit 63 for defendant) is a photograph taken standing directly in the door. You could not see the mirror with the naked eye or in the picture. The following are views taken at the pencil factory: (Defendant's exhibit 64) is a picture of the safe, showing a view of the safe, standing just inside of the door of the office, looking toward the inner office. Defendant's exhibit 65 is another view of the safe and office made standing in door. You could not see any part of Mr. Frank's desk in inner office, or a man sitting at desk, or a telephone or a window. Defendant's exhibit 66 is a photograph taken on the outside of the outer office, looking toward the inner office, with the safe door open. You could not see into the inner office, to Mr. Frank's desk, or a man sitting there. Exhibit 67 for defendant shows the pay window. Defendant's exhibit 68 shows foot of the elevator shaft, showing the rubbish and barrels in and adjacent to the elevator shaft. Defendant's exhibit 69 shows the basement looking to the back door to the elevator shafe. Defendant's exhibit 70 represents the corner of the place where the body was found, the body being found just about the left corner, behind the partition. Defendant's exhibit 71 shows the exit to the back door of basement. Defendant's exhibit 72 shows the entrance on the street floor. The elevator is behind the partition on the right of this photograph. Defendant's exhibit 73 shows the elevator and trap door and stairway on the first or street floor. Defendant's exhibit 74 shows the place where Conley says he found the body. The defendant's exhibit 75

shows the place where the cotton sacks were kept. Defendant's exhibit 76 is a view of the plating room. Defendant's exhibit 77 is a view of the metal room showing where the floor was chipped by the detectives in front of the dressing room. On the left is the ladies dressing room. Defendant's exhibit 78 shows the lathe. Defendant's exhibit 79 shows a view from the third floor looking to the second floor. You can see a man walking from the metal room towards the elevator, just as is shown in this picture. Defendant's exhibit 80 shows the elevator box on the second floor. Defendant's exhibit 81 shows the wheels at the top of the fourth floor. Defendant's exhibits 82 and 83 show views of the metal room. Defendant's exhibit 84 shows the doors of the metal room. These doors have glass in them. They do not lock. You can push them together, but the locks do not match. Defendant's exhibits 85 and 86 show the metal closet with the door open and closed. All these photographs are fair representations and are as accurate as a photograph can be. I have had 20 years' experience. A slight change in the mirror would have made the corner of it visible and would have thrown part of the room in view.

CROSS EXAMINATION.

The mirror could be turned so as to see a reflection in the hall. These photographs were made about a month ago. Sitting in the back door you could not see very near the mirror at the Selig residence.

T. H. WILLET, sworn for the Defendant.

I am a pattern maker. I made the pattern of Pencil Factory from a blue print. This is the model (Exhibit 13 for defendant).

CROSS EXAMINATION.

The height of the floors is not made according to scale. The floor plan is a correct representation, according to the blue print. The windows in Mr. Frank's office were not put in by me.

RE-DIRECT EXAMINATION.

I was given no instructions except to follow the ground floor plan as shown on the blue print. This is the blue print (defendant's exhibit 87), from which I made the model.

C. W. BERNHARDT, sworn for the Defendant.

I am a contractor and builder. This (defendant's exhibit 52) fairly represents the back porch of the Selig home, as well as the first floor of the house. Standing in the kitchen door you can't look through the passage way and see into the mirror. If you move up a little distance you can see about 18 inches of the mirror. You could see nobody sitting on the south

side of the table in the dining room, or on the north side of the table, in fact you can not see the table at all, or the door leading from the dining room to the sitting room. Sitting in a chair against the jamb of the kitchen door, you could not see a man in that mirror. You would have to be a foot or more inside of the door before you get any view of the mirror at all.

CROSS EXAMINATION.

Taking a point between the door and the back porch and a point about the pantry you could see about half of the mirror. The floor in the dining room showed that this furniture had been standing in the same position for some time. You could see the top of a man's head if he were sitting at the table. If the mirror were turned you might get a view. It depends on the angle of reflection. It is easy to move the furniture. The mirror is rigid in the furniture.

H. M. WOOD, sworn for the Defendant.

I am the Clerk of the Commissioners of Roads and Revenues of Fulton County. Standing in the back kitchen door of the Selig residence that enters on the back porch and undertaking to look into the dining room, I could not see the mirror in the corner of the dining room at all. Moving up into the kitchen, near the passageway, I could see nothing but the top of one chair by looking in the mirror.

CROSS EXAMINATION.

The view that I could get of the mirror would depend upon where I stood in the kitchen. I can only speak from the conditions that existed as I saw them as to the arrangement of furniture.

JULIUS A. FISCHER, sworn for the Defendant.

I am a contractor and builder. I looked at the house of the Selig's at 68 E. Georgia Avenue. Standing in the kitchen door, I had very little view of the sideboard. You could see possibly an inch in the morror. You can get no view from the mirror. The test was made sitting down and standing up. The mirror is four feet high from the floor. You could get no view of the dining room table, nor see a man sitting at the table. The mirror is fixed straight up and down. The view you get depends on the angle of the mirror. If properly adjusted you might see a man standing up.

CROSS EXAMINATION.

I had the mirror turned around, but I couldn't see anything. The mirror was too high from the floor. I don't know what the conditions were on April 26th.

J. R. LEACH, sworn for the Defendant.

I am division superintendent of the Ga. Ry. & Power Co. I know the schedule of the Georgia Avenue line and the Washington St. line. The Georgia Avenue line leaves Broad and Marietta on the hour and every ten minutes. It takes two minutes to go from Broad and Marietta to the corner of Whitehall and Alabama. It takes 12 or 13 minutes to run from Broad and Marietta to the corner of Georgia Avenue and Washington St., about ten minutes from Whitehall and Alabama to Georgia Avenue and Washington St. The Washington St. car leaves Broad and Marietta two minutes after the hour and every ten minutes. It gets to the corner of Whitehall and Alabama St. in two minutes and it takes ten minutes from Whitehall and Alabama to Washington and Georgia Avenue and ten minutes from Glenn and Washington Sts. into center of the city.

CROSS EXAMINATION.

The men come in ahead of the schedule time. I suspended a man last week for coming in ahead of time. It happens that cars come in ahead of time. You sometimes catch the men in ahead of time when they are going to be relieved. It isn't a matter of impossibility to keep the men from coming in ahead of time, but we do have it. The English Avenue line is a hard schedule. It frequently happens that the English Avenue car cuts off the River car, and the Marietta car. I have seen the English Avenue car cut off the Fair St. car, which is due at five after the hour.

K. T. THOMAS, sworn for the Defendant.

I am a civil engineer. I measured the distance from the intersection of Marietta and Forsyth St. to the pencil factory on Forsyth St. It is 1,016 feet. I walked the distance, it took me four and a half minutes. I measured the distance from the pencil factory to the intersection of Whitehall and Alabama; it is 831 feet. I walked the distance and it took me 3 1-2 minutes. I measured the distance from the pencil factory to the corner of Broad and Hunter; it is 333 feet. I walked it in a minute and three quarters. I walked at a fair rate.

CROSS EXAMINATION.

I could have walked it more rapidly and made it in three minutes. A man would have to walk slower than I walked to take him 6 minutes to go from Marietta and Forsyth to the factory.

L. M. CASTRO, sworn for the Defendant.

I walked from the corner of Marietta and Forsyth St. to the upstairs of the National Pencil Factory on S. Forsyth St. at a moderate gait. It took me

4 1-2 minutes. I walked from the same place in the pencil factory to the corner of Whitehall and Alabama Sts., and it took me three minutes and twenty seconds. I walked from the corner of Hunter and Broad Streets to the same place in the pencil factory and it took me one minute and a half.

PROF. GEO. BACHMAN, sworn for the Defendant.

Prof. of Physiology and Physiological Chemistry Atl. Col. Phys. & Surgeons. Bomar says it takes 4 hours and a half to digest cabbage. That's for the cabbage to pass from the stomach into the intestines. The gastric digestion takes 4 hours and a half. That is the time it is supposed to be in the stomach. More digestion occurs in the small intestine. The pancreatic juice helps digestion mostly in the small intestine. It consists of water in organic salts of which sodium carbonate is the most important, and a number of ferments. The ordinary time that it takes wheat bread to pass out of the stomach is not less than three hours. The time for a meal consisting of cabbage cooked for about an hour and wheat biscuit to pass out of the stomach depends a great deal upon the mastication of the food. The times given above have reference to the most favorable conditions. If the cabbage is not well chewed it would take considerably longer. It is impossible to tell exactly how long. There is no regular rules about how long such substances as cabbage and wheat bread will be found in a person's stomach. It depends upon too many different factors. Even in a healthy normal stomach the digestion might be arrested or retarded at any stage, as by strong emotion such as fear and anger or violent physical exercise, or in the state of mastication. The pyloris prevents passage of food to the intestines except when it is liquid and when there is free hydrochloric acid in the stomach. If solid food touches the pyloris it closes immediately and nothing passes for a time. If there were particles of cabbage in the stomach unmasticated in which you can see part of the leaf, they are liable to keep the contents of the stomach in it seven or eight hours or longer by coming into contact with the pyloris. The liquid contents would pass into the intestines. The solid part would be retained for a very long time. The pyloris works mechanically, and unless a chemist knows to what extent those unchewed portions have affected the pyloris he can give no reliable estimate as to how long such food has been in the stomach. It's a guess. The acid in the stomach is hydrochloric, consisting of one atom of hydrogen and one of chlorine. It combines with protein; only one per cent. of cabbage is protein, and only about one per cent. of the cabbage is acted upon in the stomach; the balance is acted upon in the small intestines, and in the mouth, where digestion begins to a certain extent. The salts in the saliva act on the starch in the cabbage. This cabbage (State's Exhibit G) I don't think has been masticated at all so far as these pieces are concerned. There can be no doubt that these pieces would retard the digestion

and the passage from the stomach into the small intestines. The presence of such cabbage would make it very uncertain as to how long before the food would pass out of the stomach. I couldn't say, and I don't think anybody could say, how long cabbage and wheat bread in such condition would stay in the stomach. As far as wheat bread and water are concerned the acidity of the stomach with reference to hydrochloric acid may go between 40 and 60 degrees, which is the average height of the acidity. With wheat bread in the same shape of biscuit it would take the acidity about an hour to reach that height. With cabbage we don't know how long it would take it to reach that height. The acidity may rise very quickly and decline slowly. It would not necessarily take it one-half of the 4 1-2 hours necessary for digestion. When the acidity reaches a certain height it begins to descend. The longer it stays in the stomach it decreases. If you find 32 degrees in the body of a corpse you cannot tell whether it is on the ascending or decreasing scale. There is no data on how long it would take the acidity to reach its height in case of cabbage. If a gallon of the juices of a corpse are taken from the body and a gallon of embalming fluid, which is 8 per cent. formalin, is put in, it would destroy the ferments in the pancreatic juices. There would be no way to tell by testing such a body whether any of that pancreatic juice had been in the lower intestine or not, for the only way to tell that is to find the action of the ferment, and if the formalin has destroyed it you can't tell anything about that at all. After formalin has been in the body it is difficult to tell how long food has been in the stomach. Formalin destroys the pepsin in the stomach. I never heard of hydrochloric acid being measured by drops before, because it is vapor. If I investigated a stomach and found wheat bread and cabbage, some of which was in that condition (State's Exhibit G) and approximately a drop and a half or two drops of combined hydrochloric acid, the stomach being taken out during a post mortem on a subject that has been interred nine of ten days, a gallon of the liquids of the body having been taken out and a gallon of embalming fluid put in it, and if I further found the acidity of the stomach to be 32 degrees and practically no pepsin, and practically nothing in the lower intestine, the body having been embalmed with formaldehyde, it would be impossible for me or any other chemist or physician to tell anything about the time it had been in the stomach. The acidity of the stomach does not suffice to show it, because it may have been higher than that. There may have been considerable free hydrochloric acid, and that may have disappeared after the body had been embalmed, or even before that some of it will combine with the walls of the body and some passes out. Not finding anything in the lower intestine would be of no value at all, because the ferments would be destroyed entirely.

CROSS EXAMINATION.

If I took the contents of an absolutely normal stomach and made a positive test and found starch there, and there was nothing to indicate that anything was stopped up, and the intestines six feet below were absolutely clear,

and nothing has moved out of the stomach, that would show me nothing as to how far digestion had progressed, for starch is found in the stomach from the beginning of digestion until the last particle of bread has passed out of the stomach and that may be three or four hours. Medical men are able to compile tables showing how long it takes to digest cabbage and other things by testing for protein, but not for starch, because proteins are the only substances which combine with the hydrochloric acid and which are digested in the stomach, and that can be done only within certain limits and not with mathematical certainty. If the starch digestion is not interrupted, maltose would be found in the stomach, but if I made a test and found starch, but no maltose, I could express no opinion unless the food had been well masticated, and unless I knew how soon after the food entered the stomach that free hydrochloric acid appeared, because free hydrochloric acid stops the starch digestion. Finding starch and no maltose would not necessarily mean that digestion had not progressed very far, because free hydrochloric acid may have appeared soon after the food entered the stomach and stopped starch digestion. In the average case I would say the starch had not been in the stomach very long. In an ordinary normal stomach you might find maltose before the food reaches the stomach, even in the mouth. It depends on mastication. If I did not find it in the mouth or stomach I could not say how long digestion had progressed. If I was told that these samples (State's Exhibit G) were taken from a normal stomach within from 40 to 60 minutes after they were taken in it, I would answer that they might have been in the stomach 7 or 8 hours. When it is said in the books that it takes four hours to digest cabbage it means cabbage which has been well chewed, not cabbage of that kind. (State's Exhibit G.)

RE-DIRECT EXAMINATION.

Cabbage, like this (State's Exhibit G) could pass from the body whole. Before it could be told with any degree of certainty how long after eating a meal of bread and cabbage 32 degrees of hydrochloric acid would be found, numerous observations would have to be made.

DR. THOMAS HANCOCK, sworn for the Defendant.

A doctor for 22 years. Engaged in hospital work 6 or 7 years. Have treated about 14,000 cases of surgery. Have examined the private parts of Leo M. Frank and found nothing abnormal. As far as my examination disclosed he is a normal man sexually. If a body is embalmed about 8 or 10 or 12 hours after death, a gallon of the liquids of the body removed, a gallon of embalming fluid, containing 8 per cent. formaldehyde is injected, the body buried and a post mortem examination made at the end of 9 or 10 days, and the doctor finds back of the ear a cut which is opened and which extends to the skull about an inch and a half long and finds on the inside of the skull no actual break of the skull, but a slight hemorrhage under the skull corresponding to the point where the blow had been delivered and there is no inter-

ference with the brain or any pressure on the brain, no doctor could tell that long after death whether or not the wound would have produced unconsciousness, because the skull may be broken and considerable hemorrhage and depression occur without any loss of memory even. There is no outside physical indication of any sort that a man could find that can tell whether it produced unconsciousness or not. If the body was found 8 or 10 or 12 hours after death with that wound and some blood appears to have flowed out of the wound, that wound could have been inflicted before or after death, the blood might flow from a wound inflicted after death from one to six or eight or ten hours by gravity. If the wound was made during life by a sharp instrument I would expect it to bleed. A live body bleeds more than a corpse. If under the above conditions only a visual examination of the lungs was made and no congestion was found, it could not be stated with certainty whether or not the person died from strangulation. If in such a subject I removed the stomach and found in it wheat bread and cabbage partly digested like that (State's Exhibit G), and 32 degrees of acidity in the stomach and very little liquids or anything in the smaller intestine and feces some 5 or 6 feet further down, and if the stomach was taken from the body 9 days after death, after it had been embalmed with a preparation containing 8 per cent. formaldehyde, neither I nor anybody else could give an intelligent opinion of how long that cabbage and wheat bread had been in the stomach before death. The digestion of carbo-hydrates begins in the mouth. The more cabbage and wheat bread are masticated the more easily it is digested. Cabbage chewed like that (State's Exhibit G) would take longer to digest. It is liable to stay in the stomach 3, 4 or 5 hours, and longer if it is stopped up by the pyloris, and when food is not chewed thoroughly, it causes irritation and constriction, and so the stomach would retain the food longer. Sometimes cabbage passes out of the body whole. No dependable opinion could be given as to the time that cabbage had been in the stomach from the conditions of acidity or lack of acidity, starch or the lack of starch, maltose or the lack of maltose. The conditions are too variable. A great many things retard digestion, such as excitement, anger and grief. Formaldehyde stops all fermented processes of the pancreatic juices, and after a body was embalmed with it I would not expect to find the pancreatic juices. It also destroys the pepsin, so that 10 days after death in the case of a body embalmed with formaldehyde no accurate opinion could be given as to how long the cabbage (State's Exhibit G) had been in the stomach. Each stomach is a law unto itself. Cooked cabbage is more difficult to digest than raw cabbage. I recently made tests with one man and four women with normal stomachs, giving them cabbage and wheat bread, and removing it from the stomach a little later to determine how the contents of the stomach looked. The first woman, age 22 (Defendant's Exhibit 88A) ate loaf bread and cabbage, chewed it well and vomited it 60 minutes later. She ate it at 12 o'clock approximately. It took her 9 minutes to chew it. None of them were supposed to have eaten anything since 6:30 o'clock that morning, but she had drunk some chocolate milk at 9:30, and

that gives this specimen the chocolate brown color. The next one (Defendant's Exhibit 88B) has in it the hot water and the entire vomit and embalming fluid added to it, that is formaldehyde. This cabbage was not well chewed, and looks like it did before it was eaten. She ate it at 5 minutes after 12, and it stayed in her stomach 45 minutes. The next one (Defendant's Exhibit 88D) was a man 25 years old. He did not chew his well. He ate it in 5 minutes. I took it from his stomach 1 hour and 15 minutes later. It was not digested. This next one (Defendant's Exhibit 88C) was a woman, aged 21. She chewed it well, and held it from 30 to 45 minutes. There seems to be something like tomatoes in it which she ate at 6:30 that morning. This last one (Defendant's Exhibit 88E) was a woman, aged 25. She ate cabbage and bread. She did not chew it well, and kept it 2 hours and 28 minutes. You can see cabbage in there. No dependable opinion resulting from the condition of the contents of the stomach irrespective of acidity or the other chemical qualities as to how long cabbage and wheat bread were in the stomach can be given where particles like that (State's Exhibit G) are found. Where a young lady 13 or 14 years old died, her body is embalmed as above described, and a post mortem performed 9 or 10 days after death, and the physician finds epithelium detached from the walls of the vagina in several places, nothing being visible to the naked eye and he takes several parts of the wall of the vagina away and examines them with a microscope and discovers that the blood vessels are congested, that is, there has been a hemorrhage in a number of instances, the blood from those microscopic vessels getting into tissues, the removal of the epithelium could be accounted for by the fact that there has been a digital examination the day after death by inserting the fingers, but in that length of time I would expect the epithelium to shed off. Finding the epithelium missing in several places or separated from the wall of the vagina would not indicate any violence done to the subjects in life. The condition of the blood vessels above described I would expect to result from other causes than violence. The embalming might force the blood through the small capillaries. If the subject had just had her menstrual period and that had come back on her at about the time of death or before, that would account for those distended blood vessels and hemorrhage; but even if violence caused them, you could not tell how long before death that violence had been inflicted, or that it had been inflicted within from 5 to 15 minutes before death. Death by strangulation might have an effect on those blood vessels. If there was no more damage than what I have described I would say certainly there was no violence on the young woman. A bruise or discoloration could be produced on the eye or face any time before the blood coagulated utterly, which may be as long as 8 or 10 or 12 hours after death. A blow on the back of the dead can discolor the eye. Death can be produced by a blow on the outside of the head by concussion without any appreciable lesion on the outside of the head.

DR. WILLIS F. WESTMORELAND, sworn for the Defendant.

DIRECT EXAMINATION.

A practicing physician for twenty eight years, general practice and surgery. A professor of surgery for twenty years, and formerly president of the State Board of Health. If the body of a girl between thirteen and fourteen years old was embalmed about ten hours after death, after taking out a gallon of fluid and putting in a gallon of embalming fluid, of which 8 per cent. is formaldehyde and the body was buried and nine or ten days after upon a post mortem examination a cut an inch and a half long cutting through to the skull in some places was found by the ear, and the skull was opened and on the inside of the skull no actual break of the skull was found, but a little hemorrhage under the skull corresponding to this point where the blow had been delivered and no pressure on the brain was caused, and no injury to the brain occurred it would be impossible to tell whether or not that would have produced unconsciousness before death. Skull may be fractured without producing unconsciousness. Death may be produced by a blow on the head that leaves very little outward signs. From looking at such a wound without any knowledge of the amount of blood lost, one could not tell whether it was inflicted before or after death. One could not tell from looking at a wound of that sort from which direction it was inflicted. [In answer to question as to whether he had any personal feeling against Dr. Harris, witness answered "No," but that he had preferred charges with State Board of Health charging Dr. Harris with professional dishonesty.] A blunt surface can produce a wound that would look like a cut. If in the case of the same patient the stomach was taken out and in it was found wheat bread and cabbage, some of the cabbage looking like that, (State's Exhibit G), and thirty-two degrees of combined hydrochloric acid and substantially nothing in the small intestine, and feces some five feet away, it would be impossible to form a reliable opinion that cabbage and bread had been in that stomach before death, on that data or any other data, that could be found by looking at the stomach nine or ten days after death. Many things retard digestion. Much depends upon the particular stomach, and its affinity for particular foods. There is a cycle of acidity and in the progress of digestion that increases, and then later it goes down. Food that is not thoroughly emulsified will remain in the stomach indefinitely. Cabbage like that (State's Exhibit G) and wheat bread might remain in the stomach until the process of digestion is complete, which ordinarily would be from three and a half to four hours. They might pass through the body undigested. A formaldehyde embalming preparation would destroy the pancreatic juices, and also the pepsin in the stomach. The probability is that some of the hydrochloric acid and maltose found upon an examination of the stomach in such a case would in no way determine how long food has been in the stomach. If upon the post-mortem above described, it was found that the epithelium had been so effected that it had been removed from the wall of the vagina in several places, and upon a micro-

scopic test of the wall of the vagina it was found that some of the small blood vessels had congested blood in them, these facts would not necessarily indicate violence of any kind during life, it being also known that there had been a digital examination by the physician just after death and before embalming, and that the physician performing the post-mortem had removed the wall of the vagina with his hand and scissors. Any epithelium can be very easily stripped after death. The digital examination could have stripped it. So could the removal for purposes of post-mortem examination. If the subject had had a menstrual period a day or two before death and she was found in the act of menstruating at the time of death, this would account for the congested blood vessels, and it would also make the epithelium much easier to strip. Even if an opinion could be expressed as to violence before death, it would be impossible to say that it occurred from five to fifteen minutes before death. From an examination of the private parts of Leo M. Frank he appears to be a perfectly normal man. A black eye could be inflicted after death. As long as the blood is not coagulated. A lick on the back of the head could produce a black eye.

CROSS EXAMINATION.

There are sexual inverts who are absolutely normal in physical appearance. If I had a subject where there was a blow on the head, going practically to the skull, with no injury to the brain, and the face was livid, the tongue hanging out, with deep indentation in the neck, the flesh pushed out of place, with blue nails and lips, I would say that death was produced by strangulation, in the absence of other facts. A blow on the eye could produce a swollen condition after death. Even assuming that the doctor who went into the uterus and vagina with his fingers was very careful and did not rupture or injure the parts or cause dilation, and if the microscopical examination showed a dilation of the blood vessels of the vagina, discoloration of the walls, and swelling of the parts, the menses could have brought about this condition, and it would not necessarily be due to violence. Menstruation would not produce discoloration except there would be an increased reddening on account of the increased amount of blood. This change of color will be found wherever epithelium was, in the uterus and in the vagina. It would produce swelling wherever the mucous membrane was. A doctor could not look at cabbage in various stages of digestion and venture an opinion as to how long it had been in a woman's stomach. Doctors do not know, even apprximately, how soon after a stomach receives a certain substance before hydrochloric acid is found in a free state. It may be delayed for hours, it may be found earlier. Digestion has no fixed rule at all. The usual rule is the hydrochloric acid is found within a range of about half an hour. The time when it begins to descend depends upon the character of the food in the stomach and as to how the glands are acting.

RE-DIRECT EXAMINATION.

The human tongue could not produce any signs of violence in the vagina. Where there is a skull wound an inch and a half long cutting through the little arteries like the wound described above, it would bleed and if the body lay in one place 30 or 40 minutes there would be bleeding and if the body is picked up and carried about 40 feet and dropped at another place I would expect to find blood there. Skull wounds bleed very freely, and there would be blood wherever the body was.

DR. J. C. OLMSTEAD sworn for the Defendant.

Practicing physician for 36 years. Given the facts that a young lady 13 or 14 years old died and 8 or 10 hours after death the body was embalmed with a preparation containing 8 per cent. formaldehyde, and the body is exhumed at the end of 9 or 10 days, and a post-mortem examination shows a wound on the left side of the back of the head about an inch and a half long, with cuts through to the skull, but no actual fracture of the skull, but a hemorrhage under the skull corresponding to the point where the blow was delivered, with no injury to the brain, it would not be possible for a physician to determine whether or not that wound produced unconsciousness before death. Such a wound could have been made within a short while after death. It is impossible to tell from the mere fact of discoloration whether an eye was blackened before or after death. If the post-mortem made on the same subject 9 or 10 days after death showed upon an examination of the contents of the stomach a mixture of wheat bread and cabbage like this (State's Exhibit G), it being possible to distinguish a cabbage leaf, and 32 degrees of acidity, it would not be possible to determine from these facts or any other chemical facts that might be found there how long that had been in the stomach with any degree of accuracy. It is impossible to tell when hydrochloric acid begins to be secreted in a given case. The hydrochloric acid follows a curve; as a rule it ordinarily begins slowly until it reaches a certain point and then gradually goes off according to the character of the food and the amount in the stomach. After death free hydrochloric acid and pepsin do not remain in such a state in the stomach that you could tell 9 days afterward the exact time of death. The hydrochloric acid disappears after death, and neither it nor the pepsin would be present in any degree 9 or 10 days after death. Embalming fluid destroys the pancreatic juices so that it would be impossible to find them. Cabbage like that (State's Exhibit G) is liable to obstruct the opening of the pyloris, and to delay digestion. Food of that character might remain in the stomach undigested for 10 or 12 hours irrespective of the acid found there. If shortly after death a doctor makes a digital and visual examination of the vagina, opening the walls of the vagina with his hand, and finds no signs of violence and then 9 or 10 days after death a post mortem emanination shows the epithelium detached from the walls of the vagina in a number of places, and a microscope shows on parts of the

vagina removed from the body that the blood vessels are congested, this may be due to menstruation or the natural gravitation of blood to those parts and is not necessrily indicative of violence. Manipulation of the membrane would account for the displacing of the epithelium. The use of embalming fluid would make a diagnosis of violence utterly unreliable. Strangulation might result in a distension of the blood vessels. The entire pelvic vessels are always more or less congested during menstruation. No one could make a digital examination of the vagina of a corpse without disturbing the epithelium. It would be impossible for a doctor finding those conditions in the vagina by means of a microscope 9 or 10 days after death to tell that violence had been inflicted from 5 to 15 minutes before death.

CROSS EXAMINATION.

There are medical tables showing that wheat bread digests in about 2 1-2 hours and cabbage in about 4 1-2 hours. If cabbage cooked in the same way and bolted down in the same way is taken from the stomach of a living person within 30 or 50 minutes after having been eaten and is found in a similar condition to that of cabbage taken from the dead person's stomach 10 days after death, that would not necessarily mean that the latter cabbage had been in the stomach an equal length of time.

DR. W. S. KENDRICK, sworn for the Defendant.

I have been a practicing physician for thirty-five years. I was Dean of the Atlanta Medical College. I gave Dr. Harris his first position there. If a young lady between thirteen and fourteen years of age died and a post-mortem examination was made within eight or ten days after death, by a physician who makes a digital and visual examination to determine whether there is any violence to the vagina or not, and inserts his fingers for the purpose of deciding, and the body is embalmed, and after nine days it is disinterred and another post-mortem performed and the physician performing the post-mortem takes a half dozen strips and sees nothing with his naked eye by way of congestion, but by the use of a microscope finds that some of the epithelium is stripped from the wall of the vagina, I don't think that the finding of the epithelium stripped from the wall would indicate anything unusual. I don't think that would indicate any act of violence. A female's menstrual periods brings about congestion and hemorrhages of the blood vessels every time. The congestion gradually subsides within two or three days. That would not be any indication of violence, nor could you tell how long before death the violence had been inflicted. If a young lady had a wound on the back of the head about an inch and a half long cutting to the skull and the skull was open and a small hemorrhage was found, that did not involve pressure on the brain and the brain itself was not injured, I am positive that no man examining the body nine or ten days after death could have any way of telling whether that wound would produce unconsciousness

or not. It would be a pure conjecture if he said anything on that subject. Skulls are sometimes fractured without unconsciousness. Each stomach is a law to itself. It is a known fact that some stomachs will digest different substances quicker than others. I don't think that there is an expert in the world who could form any definite idea by either chemical analysis of the liquids of the stomach or by the condition of the cabbage lodged in the stomach as to how long it had been in the stomach.

CROSS EXAMINATION.

I am not a specialist of the stomach, but I am and have been teaching diseases of the stomach and all these cases come under my jurisdiction. Dr. Westmoreland is a surgeon, not a stomach specialist. Dr. Hancock is not a stomach specialist. If you find starch granules in the stomach undigested and cabbage undigested and thirty-two degrees of hydrochloric acid in the stomach and no dextrose and no maltose, the small intestines for six feet absolutely empty, the sides and glands of the stomach all normal, I would not have an opinion as to how long that cabbage was in the stomach for the reason that each case will order itself. Yes, there are certain general principles dealing with these matters. Hydrochloric acid appears early during digestion and in small quantity, and goes up. The main things in the stomach are pepsin and hydrochloric acid. As soon as a piece of cabbage or bread gets into the stomach the hydrochloric acid begins to attack it and works until it has a clear field and leaves nothing in the stomach, and thereafter the hydrochloric acid descends. I have made no effort whatever to find out how rapidly hydrochloric acid descends and ascends. I should think though that whenever you find no hydrochloric acid the process of digestion is ended and that if you find undigested things in the stomach and hydrochloric acid in a small degree, that the process of digestion had not been finished. That's the general rule. That does not apply in all cases. For instance, I can't digest cabbage at all. It will put me in bed. Each stomach is a law unto itself, so far as digestion goes, any statement to the contrary is incorrect. There are certain basic laws that apply to most people. I haven't read a work on digestion in ten years. If there be four different stages of digestion, I think it would be impossible for an expert to tell by an examination what stage of digestion certain things were in. There are so many exceptions to the rule. As to whether the cabbage had been digested or not, if whole pieces of cabbage were there I could tell, but if you could not find the cabbage either with the naked eye or the microscope, I would say that it had been digested. I don't know how long it takes an ordinary stomach to digest turnips. If a 13-year-old child ate cabbage and bread on Saturday and her body is found that night about three o'clock, with the tongue out, deep indentations in the neck, a small flow of blood from a wound in the back of the head, a discolor of blood over her pantlets, one of the drawers legs torn, the stocking supporter torn loose, rigor mortis had set in since 16 to 20 hours, all blood had settled down in that part where gravity had

taken it according to the way the body was lying and the small intestine was clear six feet below the stomach, the stomach was normal, and there was no mucous and every indication was that the digestion was progressing favorably and this cabbage was found with the naked eye in the stomach and unmistakable evidences of undigested starch granules and thirty-two degrees of hydrochloric acid, I say emphatically that no man living in my judgment could say how long that cabbage had been in the stomach. If Mary Phagan was alarmed concerning her surroundings, or knew that certain facts were upon her, digestion then and there would have almost been completely arrested. If she lived six or eight hours after this alarm, I say that no digestion could have continued up to the time of her death. Any kind of mental or physical excitement would largely arrest digestion, probably completely. I could tell by looking into the stomach that day, but if I examined that ten days afterwards, and found the cabbage in that state and I had said that death or excitement had arrested its digestion I would consider that I had stated one of the greatest absurdities of the day. I don't believe it is possible to tell a thing in the world of the contents of the stomach of a person that had been dead six or eight or ten days. Yes, that looks like cabbage (State's Exhibit G).

RE-DIRECT EXAMINATION.

That cabbage doesn't look (State's Exhibit G) as if it had been chewed at all. Cabbage chewed that way would be hard to digest.

JOHN ASHLEY JONES, sworn for the Defendant.

I have known Mr. Frank about a year or eighteen months. His general character is good.

CROSS EXAMINATION.

I am resident agent for the New York Life Insurance Company. I don't know any of the girls at the pencil factory. I have never heard any talk of Mr. Frank's practices and relations with the girls down there. Mr. Frank has a policy of insurance with us. It is our custom to seek a very thorough report on the moral hazard on all risks. The report on him showed up first class, physically as well as morally. I went to him in January, 1912, and tried to write him additional insurance, and on April 8th I went to the factory to take his application, where I met him and his wife. After a thorough examination of him by our physician and a very satisfactory report, covering his moral reputation, we issued him a standard policy. I have never heard of Mr. Frank going out to Druid Hills and being caught there, but it was the business of our inspector to find out that and he certainly would not have issued such a policy if he had found it out. Two or three of us in the office signed a long letter to the Grand Jury in the interest of justice. Mr. Robert L. Cooney, Mr. Hollingsworth, Mr. Clark and myself signed it. We decided this was a matter of persecution. I think Mr. Cooney started it. No, I have

never heard of Mr. Frank's kissing girls and playing with their nipples on their braests. I have never known Mr. Blackstock. I never heard that Mr. Frank would walk into the dressing room when the girls were dressing, nor that he tried to put his arms around Miss Myrtis Cato and tried to shut the door on her, or going in the dressing room with Lula McDonald and Rachael Prater, nor that Mrs. Pearl Darlson about five years ago threw a monkey wrench at him when he put his hand on her and held money in one hand. I have never seen any nude pictures hanging in his office, although I have been there a number of times. I have never heard that he smiled and winked at young girls.

RE-DIRECT EXAMINATION.

This is the letter I wrote to the Grand Jury: Mr. W. D. Beatty, Atlanta, Ga. My Dear Sir: Without having the slightest intention of interfering in any way in matters which do not concern me, I believe that the interest which any good citizen has in impartial justice warrants my saying that the business men to whom I have talked, commend very strongly the attitude of the Grand Jury in its disposition to at least investigate the merits of the situation as regards the negro Conley in the present matter which has interested the city of Atlanta so much that it is not necessary to describe it, and I sincerely hope that the Grand Jury will go into the matter exhaustively, knowing from the character of several of its members with whom I am acquainted that, to the best of their ability, the right thing will be done.''

DR. LEROY CHILDS, sworn for the Defendant.

I am a surgeon. If a person dies and the body found three o'clock in the morning, rigor mortis not quite complete, embalmed the next day about ten o'clock, the body disinterred nine days later and a post-mortem made, and a wound is found on the back of the head behind the ear, almost two and a quarter inches long going through the skull, there was perhaps a drop of blood under the wound, no pressure on the brain, no fracture of the skull, it would be impossible to determine absolutely at that time whether or not that wound produced unconsciousness. You might hazard a guess. The presence of the blood on the skull would have no effect. It is the force that produced the drop of blood that is material. It would be purely a guess to say whether that produced unconsciousness or not. The wound would bleed if inflicted within an hour after death and would have the same appearance as if inflicted just before death. With such a wound it would be a guess for a doctor to say whether it was inflicted just immediately before death, or within an hour or two after death. Such a wound could be inflicted and a person remain perfectly unconscious. Fractured skull does not necessarily produce unconsciousness. Cabbage is a carbohydrate. It is considered the hardest food to digest among carbohydrates, because it has so much cellulose which is a woody fibre. The older the cabbage is the more cellulose it has. Cabbage gets its digestion in the mouth. That cabbage (State's Exhibit G)

has not been masticated thoroughly. They have been swallowed almost whole. Raw cabbage is easier digested than cooked cabbage. Cooked cabbage is the most indigestible form of it. It is the ptyaline in the saliva that acts on the cabbage in the mouth. It acts on the carbohydrate part of the cabbage. The carbohydrate digestion ceases after it leaves the mouth until it reaches the small intestines. The only thing that the stomach does is the churning movement by muscular action. As soon as gastric juice of the stomach strikes the cabbage it neutralizes the ptyalin and renders it inactive. It stops any further digestion of the carbohydrate. The balance of the digestion of the cabbage takes place in the small intestines by the pancreatic juices. The shortest time for boiled cabbage to pass into the small intestines is four and a half hours after it is eaten. The stomach does not digest the cabbage. A person may swallow cabbage and it will come out of him whole completely undigested, and it will appear less changed than that appears (State's Exhibit G). Psychic influences will retard digestion as excitement, fear, anger, also physical or mental exercise. Substances may be in the stomach quite a while and show very little evidences of digestion. Each stomach has its own peculiarities. If a human body is disinterred at the end of nine days and the stomach is taken out and among the contents you find cabbage like that (State's Exhibit G) and fragments of wheat bread slightly digested, you could not by looking at the cabbage hazard an opinion as to how long before death that had been taken into the stomach. I don't think it is possible to state within a period of hours how long that cabbage had been in the stomach. I have seen cabbage less changed than that cabbage you exhibited to me (State's Exhibit G) that has remained in the stomach 12 hours. Bread and cabbage will not begin to pass out of the stomach until 2 1-2 to three hours. A blow on the back of the head could blacken the eye. It would be perfectly possible for the epithelium of the vagina to be ruptured by the fingers in making a digital examination it would be more liable to rupture it ten hours after this than immediately before this. Decomposition destroys the epithelium. It is a very delicate membrane. Decompositon develops very rapidly on such epithelium. In cases of death by strangulation all the mucous membranes throughout the body are congested by blood. It is not unusual to find those blood vessels congested where death is by strangulation. In such a case I would expect to find congestion in the vagina, especially if a person had just had her monthly periods. Menses may be brought back by excitement. Violence would not be necessary to produce the conditons of congestion of the blood vessels that you have stated. The digital examination would be sufficient violence to produce the changes in the epithelium that you have stated. The congestion of the blood vessels could be entirely accounted for by natural causes, or from death by strangulation. If the epithelium stripped in some places and the blood vessels are found congested under the microscope, there is no possible way to determine if violence had caused it instead of natural causes, unless there is a sign of bacterial inflammation. It would be impossible to tell how long violence was inflicted before death, where

the body is disinterred nine days after death. I could not hazard a guess within two days of the time. I think I might in two weeks.

CROSS EXAMINATION.

The amount of digestion in the mouth depends on the amount of mastication in the mouth. If the food is bolted there is no digestion. I am not familiar with Dr. Crittendon's table. If he states that boiled cabbage is as easy to digest as raw cabbage he is at issue with the generally accepted authorities. Normal stomachs have certain idiosyncracies. Digestion in normal stomachs is supposed to go along certain stipulated rules. You find free hydrochloric acid in any stomach that has food at any stage of digestion. As to whether you could ever find free hydrochloric acid in the stomach immediately after taking Ewald's test breakfast, would depend entirely on the state of the glands, and how long previous digestion had been in the stomach. As to the total acidity in a stomach after such a test, that is for a laboratory man. If you take cabbage out of a stomach like that (State's Exhibit G), the size of the stomach is normal, no obstruction to the flow of the stomach, and you find hydrochloric acid combined to about 32 degrees, no free hydrochloric acid, that the starch of the wheat bread is slightly digested, and the state of the starch corresponds exactly to the state of the cabbage, I don't think you could tell inside of two hours or an hour and a half as to how long these things have been in a normal stomach. I have taken cabbage from a stomach by forced emesis twelve hours afterward and it did not show as much digestion as this cabbage (State's Exhibit G). The patient had a normal stomach, but the cabbage produced indigestion. That is the only experiment I have ever made with cabbage. If the little girl was found 16 to 20 hours after she was murdered, and there is a wound on the back of the head, with a samll blood clot nine days after the thing happened, and 16 to 20 hours after her death the blood underneath the hair is still moist and there is a deep indentation in the neck, showing where a cord had been put around the throat and the tongue is out and the face livid and the nails blue and the lips blue and an injury to the wind pipe, I would say that the blow on the head did not cause death.

ALFRED LORING LANE, sworn for the Defendant.

I am a resident of Brooklyn, N. Y. I have known Leo Frank about 15 years. I knew him four years at Pratt Institute, which we both attended. I also knew him after he returned from Cornell University. His general character is good.

PHILIP NASH, sworn for the Defendant.

I live in Ridgewood, N. J. I am connected with the New York Telephone Company, in New York City. I knew Leo Frank four years at Pratt Institute. I was in his class. His general character is good.

RICHARD A. WRIGHT, sworn for the Defendant.

I live in Brooklyn, N. Y. I am a consulting engineer, with offices in New York City. I knew Leo Frank four years at Pratt Institute. I also knew him three years at Cornell. His general character is good.

HARRY LEWIS, sworn for the defendant.

I live in Brooklyn, N. Y. I am a lawyer. I was formerly Assistant District Attorney of Brooklyn. I have known Leo Frank about twelve years. I have been a neighbor of his until he came South. His general character is good.

HERBERT LASHER, sworn for the Defendant.

I live in New York State. I manage my father's estates. I knew Leo Frank at Cornell University, during the years 1903-4-5-6. I was in his class, and we roomed together for two years. His general character was very good.

CROSS EXAMINATION.

He associated with the finest class of students at the University. I kept up a correspondence with him a couple of years after he left Cornell.

JOHN W. TODD, sworn for the Defendant.

I reside in Pittsburg. I am assistant purchasing agent for the Crucible Steel Co. I attended Cornell University with Leo Frank. I knew him for years during the time I was in College. I am the life treasurer of our class. His general character was good.

PROF. C. D. ALBERT, sworn for the Defendant.

I am professor of machine designs in Cornell University. I have held that chair for five years. I knew Leo M. Frank for two years while he attended the University. At that time I was instructor in mechanical laboratory, and as such I came in contact with him. His character was very good.

PROF. J. E. VANDERHOEF, sworn for the Defendant.

I am foreman of the foundry at Cornell University. I knew Leo Frank for two years when he attended the University. His character was good.

CROSS EXAMINATION.

I have been at Cornell 25 years. As to what caused me to take any special notice of Leo Frank I come in contact with him every alternate day while

he was there. I know the characteristics of the boys very well. No, I can not tell what Frank did when he was in the class room.

V. H. KRIEGSHABER, sworn for the Defendant.

I live in Atlanta. I have known Leo Frank for about three years. His general character is good.

CROSS EXAMINATION.

I did not come in contact with him frequently. I am a Trustee of the Hebrew Orphans Home and Mr. Frank is also. I met him once a month there. I don't know how long he has been on the Board. I have met him there probably twice. He also came quite frequently to the Orphans Home with his uncle, before he was elected to the board. I did not come in contact with him socially.

M. F. GOLDSTEIN, sworn for the Defendant.

I practice law in Atlanta. I have known Leo Frank about three and a half years. His character is very good.

CROSS EXAMINATION.

We used to live on the same street together. I would see him nearly every day. I would see him at the Progress Club a few times every month. During the last two years, he was the next ranking officer to me in the Lodge.

DR. DAVID MARX, Jewish Rabbi, and R. A. SONN, Superintendent of the Hebrew Orphans Home, being sworn for the Defendant, testified that they had known Leo Frank very well ever since he came to live in Atlanta and that his character was good.

ARTHUR HEYMAN, sworn for the Defendant.

I practiced law about nineteen years in Atlanta. I have known Leo Frank for three or four years. His general character is good.

CROSS EXAMINATION.

I have been with him seven or eight times in three years. I have been with him alone, I suppose, five or six times, probably for fifteen or twenty minutes at a time. I have never heard any reference made to his relation with the girls in the factory.

MRS. H. GLOGOWSKI, sworn for the Defendant.

I keep a boarding house in this city. I have known Mr. Frank more than three years. He and his wife boarded with me for seven months. His character is good.

MRS. ADOLPH MONTAG, sworn for the Defendant.

I am a sister of Mr. Sig Montag. I have known Mr. Frank five years. His character is very good.

CROSS EXAMINATION.

I have heard of his character through the ladies he has lived with. Mrs. Meyers has told me how nice he always was to her. My husband has always spoken well of him. I have heard a great many people speak well of him. I heard his uncle speak well of him. My husband has told me what a fine, intelligent gentleman he was.

MRS. J. O. PARMELEE, sworn for the Defendant.

My husband is a stockholder in the National Pencil Company. Mr. Frank's general character is very good.

CROSS EXAMINATION.

I have seen Mr. Frank at the jail twice. I have only come in contact with him once at the factory. I am a member of the Board of Sheltering Arms, and I have heard a great deal of Mr. Frank in matters of charity and in a social way. I have heard different people speak of him, a great many people. I have heard the Liebermans, the Montags, the Haases, Mrs. Bauer, Mr. Parmalee and the employees at the factory speak of him.

MISS IDA HAYS, sworn for the Defendant.

I work at the pencil factory on the fourth floor. I have known Mr. Frank for two years. His general character is good. I have known Conley for two years. His general character for truth and veracity is bad. I would not believe him on oath.

CROSS EXAMINATION.

Conley borrowed money and promised to pay it back, but he didn't do it. We would get it after awhile. He tried to borrow money from me, but I refused to let him have it.

MISS EULA MAY FLOWERS, sworn for the Defendant.

I work on the second floor of the pencil factory. I have known Mr. Frank for three years. His general character is good. I have known Conley for two years. His general character for truth and veracity is bad.

CROSS EXAMINATION.

His borrowing money and not paying it back is one thing. He has promised and he has never paid back anything he has ever borrowed from me. I had Mr. Gantt take it out of his envelope. I have never met Mr. Frank anywhere for any immoral purpose.

MISS OPIE DICKERSON, sworn for the Defendant.

I have worked at the pencil factory for 17 months. Mr. Frank's general character is good. I have never met Mr. Frank for any immoral purpose. I have known Jim Conley ever since I have been at the factory. His general character for truth and veracity is bad. I would not believe him on oath.

CROSS EXAMINATION.

I know Mr. Darley and Mr. Wade Campbell. I don't remember if I was with them on the night of April 26. I don't remember where I was.

MRS. EMMA CLARK FREEMAN, sworn for the Defendant.

I have worked at the pencil factory over four years. Mr. Frank's general character is good. I am a married woman. I have known Conley ever since he has been at the factory. His general character for truth and veracity is bad. I would not believe him on oath.

CROSS EXAMINATION.

I have never heard any suggestion of any wrongdoing on the part of Mr. Frank, either in or out of the factory. I was forelady at the factory for about three years.

MISS SARAH BARNES, sworn for the Defendant.

I worked at the pencil factory over four years. His character is good. I have never heard anything bad. He has been the best of men.

CROSS EXAMINATION.

No one has talked to me about what I was going to swear. I have told Mr. Arnold what I have told here. I never went with Mr. Frank for any immoral purpose anywhere.

MISS IRENE JACKSON, sworn for the Defendant.

I worked at the pencil factory for three years. So far as I know Mr. Frank's character was very well. I don't know anything about him. He never said anything to me. I have never met Mr. Frank at any time for any immoral purpose.

CROSS EXAMINATION.

I am the daughter of County Policeman Jackson. I never heard the girls say anything about him, except that they seemed to be afraid of him. They never would notice him at all. They would go to work when they saw him coming. Miss Emily Mayfield and I were undressing in the dressing room once when Mr. Frank came to the door. He looked, turned around and walked out. He just came to the door and pushed it open. He smiled or made some kind of face. Miss Mayfield had her top dress off and had her old dress in her hand to put it on. I told Mr. Darley I would not quit unless my father made me, and he said if the girls would stick to Frank they won't lose anything. I heard some remarks two or three times about Mr. Frank going to the dressing room on different occasions, but I don't remember anything about it. The second time I heard of his going to the dressing room was when my sister was laying down there. She had her feet on a stool. She was dressed. I was in there at the time. He just walked in, and turned and walked out. Mr. Frank walked in the dressing room on Miss Mamie Kitchens, when I was in there. He never said anything the three times he walked in when I was there. The dressing room has a mirror and a few lockers for the foreladies. That's the only thing that I have ever seen Mr. Frank do, go in the dressing room and stare at the girls. I have heard them speak of other times when I was not there.

RE-DIRECT EXAMINATION.

My father made me quit, after the murder. There are two windows in the dressing room opening on Forsyth Street. I think there had been some complaints of the girls flirting through the windows. I have heard of some of the girls flirting through the windows. The orders were against the girls flirting through the windows. Mr. Frank never came into the room at all, he pushed the door open and just looked. My sister and I were both dressed when Mr. Frank looked in the door. The other time he came in I was fixing to put on my street dress. I was not undressed.

RE-CROSS EXAMINATION.

I don't know if Mr. Frank knew the girls were in there before he opened the door or not. It was the usual hour for them to be in there. He could have seen the girls register from the outer office, but not from the inner office. I have never heard any talk about Mr. Frank going around and putting his hands on the girls. I have never heard of his going out with any of the girls.

My sister quit at the factory before Christmas. I have never flirted with anybody out of the window. I have heard them say that they didn't want the girls to flirt around the factory. I have heard Mr. Frank say that to Miss McClellan, after she told him that she knew of some of the girls flirting.

MISS BESSIE FLEMING, sworn for the Defendant.

I worked as stenographer at Mr. Frank's office from April, 1911, to December, 1911. Mr. Frank's character was unusually good.

CROSS EXAMINATION.

I am just talking about my personal relations with him. I have never seen him do anything wrong there in the factory. He never made any advances to me or anyone else. I worked right in the same office with him. The foreladies came to the office, the other girls did not very much. I never did see any flirting. I never heard about any. Mr. Frank worked on his financial sheet in the afternoons, he didn't have time Saturday morning. I didn't stay there very often on Saturday afternoons, but I knew that he didn't have time to do it Saturday morning. I saw him on Saturdays during the mornings making out the financial sheet. The girls work by the hour and piece work. She has a right to go in there when she wants to dress to go out.

MRS. MATTIE THOMPSON, sworn for the Defendant.

I work on the fourth floor of the pencil factory. I have been there three years. Mr. Frank's general character is good. I have never heard anything against him. I have never met Mr. Frank anywhere or at any time for any immoral purpose. I have made complaint about girls flirting out of the windows with men on the outside. After seven o'clock, the girls are not supposed to be in the dressing room. There is no toilet or bathtub in the dressing room. There is no lock on the door.

CROSS EXAMINATION.

They were all complaining up there on the fourth floor about the girls flirting out of the window, and some of us elderly ladies put a stop to it by reporting it to Mr. Darley. The girls were not fast, but they would flirt. Mrs. Carson, I and some of the other ladies reported it to Mr. Darley last spring, about a year ago. The girls simply said they were standing at the windows, flirting out of the windows with men in the street. Girls did not go into the dressing room to rest, they would go to change their clothes before work time, and after finishing work. I have never heard any talk about Frank taking a girl off in a dark place and putting his arms around her.

MISS IRENE CARSON, sworn for the Defendant.

I worked for fifteen months on the fourth floor of the pencil factory. I have known Mr. Frank during that time. His character is good. I am a sister of Miss Rebecca Carson, and a daughter of Mrs. E. H. Carson. I was with my sister on Whitehall Street on April 26th and recollect seeing Mr. Frank there. I have never met Mr. Frank at any time or place for any immoral purpose.

MRS. J. J. WARDLAW, sworn for the Defendant.

I worked at the pencil factory four years. I worked on the fourth floor. Mr. Frank's character is good. I have never met Mr. Frank at any time or place for any immoral purpose.

CROSS EXAMINATION.

I have never heard of any improper relation of Mr. Frank with any of the girls at the factory. I have never heard of his putting his arm around any girl on the street car, or going to the woods with them.

LEO M. FRANK, the defendant, made the following statement:

Gentlemen of the Jury: In the year 1884, on the 17th day of April, I was born in Quero, Texas. At the age of three months, my parents took me to Brooklyn, New York, and I remained in my home until I came South, to Atlanta, to make my home here. I attended the public schools of Brooklyn, and prepared for college, in Pratt Institute, Brooklyn, New York. In the fall of 1902, I entered Cornell University, where I took the course in mechanical engineering, and graduated after four years, in June, 1906. I then accepted a position as draftsman with the B. F. Sturtevant Company, of Hyde Park, Massachusetts. After remaining with this firm for about six months, I returned once more to my home in Brooklyn, where I accepted a position as testing engineer and draftsman with the National Meter Company of Brooklyn, New York. I remained in this position until about the middle of October, 1907, when, at the invitation of some citizens of Atlanta, I came South to confer with them in reference to the starting and operation of a pencil factory, to be located in Atlanta. After remaining here for about two weeks, I returned once more to New York, where I engaged passage and went to Europe. I remained in Europe nine months. During my sojourn abroad, I studied the pencil business, and looked after the erection and testing of the machinery which had been previously contracted for. The first part of August, 1908. I returned once more to America, and immediately came South to Atlanta, which has remained my home ever since. I married in Atlanta, an Atlanta girl, Miss Lucile Selig. The major portion of my married life has been spent at the home of my parents in law, Mr. and Mrs. Selig, at 68 East Georgia Avenue. My married life has been exceptionally happy,—indeed, it has been

the happiest days of my life. My duties as superintendent of the National Pencil Company were, in general, as follows: I had charge of the technical and mechanical end of the factory, looking after the operations and seeing that the product was turned out in quality equal to the standard which is set by our competitors. I looked after the installation of new machinery and the purchase of new machinery. In addition to that, I had charge of the office work at the Forsyth Street plant, and general supervision of the lead plant, which is situated on Bell Street. I looked after the purchase of the raw materials which are used in the manufacture of pencils, kept up with the market of those materials, where the prices fluctuated, so that the purchases could be made to the best possible advantage. On Friday, April 15th, I arrived at the pencil factory on Forsyth Street, at about seven o'clock,—my usual time. I immediately started in on my regular routine work, looking over papers that I had laid out the evening before, and attending to any other work that needed my special attention that morning. At about 9:30 I went over to the office of the General Manager and Treasurer, Mr. Sigmond Montag, whose office is at Montag Brothers, on Nelson Street. I stayed over there a short time, got what papers and mail had arrived over there—all the mail for the pencil company comes over there to their office—I got that mail and brought it back to Forsyth Street. I then separated the mail and continued along my usual routine duties in the office on Forsyth Street. At about eleven o'clock, Mr. Schiff handed me the pay-roll books covering the plants at Forsyth Street and at Bell Street, for me to check over to see that the amounts and the extensions were correct. Of course, this work has to be very carefully done, so that the proper amount of money is drawn from the bank. This checking took me until about 12:30, P. M., when I made out the amount on a slip of paper that I wished to have drawn from the bank, went over to Montag Brothers, had the checks drawn and signed by Mr. Sigmond Montag, after which I returned to Forsyth Street and got the leather bag in which I usually carry the money and coin from the bank, and got the slip on which I had written the various denominations in which I desired to have the pay-roll made out, accompanied by Mr. Herbert Schiff, my assistant, went to the Atlanta National Bank, where I had the checks cashed. Returning to the factory in company with Mr. Schiff, I placed this bag containing the money for the pay-roll in the safe and locked it. At this time, my wife called for me and in her company and that of Mr. Schiff, I went over to the car and took my wife home to lunch. After lunch, I returned to the factory and took a tour for about an hour through the factory, after which I then assisted Mr. Schiff in checking over the amounts on the pay envelopes,—checking the money against the duplicate slips that we had gotten from the bank, to see that the correct amount had been given us, and I helped Mr. Schiff checking over the money and in filling the envelopes. This took us approximately until a quarter to six, to fill the envelopes, seal them and place them in the box that we have over there, with two hundred pigeon holes, and which we call our pay-off box. While I was so cccupied with Mr. Schiff in filling these envelopes, a young man

by the name of Wright, who had helped us out as a clerk in the office during the past week, came in and I paid him in cash, as Mr. Schiff, I found, neglected to put his name on the pay-roll; I just made out a ticket for the amount of money he drew and put it in the cash box and charged it to the cash box and not to the pay-roll. At a quarter to six, payment of the help took place, Mr. Schiff taking all the envelopes that were due the help who had worked from April 18th to 24th, inclusive, out to the pay-roll window, which is entirely outside of either my inner office or the outer office and out in the hall beyond,—a little window that we have built. I sat in my office checking over the amount of money which had been left over. This amount was equal,—or should have been equal, to the amount that had been loaned out in advance to help and had been deducted when we were filling the envelopes. In checking this amount over,—as near as I can recollect it, there was about $15.00,—I noticed a shortage of about $1.20,—something over a dollar, at any rate, and I kept checking to see if I couldn't find the shortage going over the various deductions that had been made, but I couldn't locate it that evening. After the help had been paid off, during which time as I sat in my office, no one came into my office who asked me for a pay envelope or for the pay envelope of another. After the paying off of the help had taken place, Mr. Schiff returned and handed me the envelopes which were left over, bound with an elastic band, and I put them in the cash compartment,—which is different from the cash box,—a certain cash compartment in the safe, the key to which is kept in my cash box. I placed them in the safe, and Mr. Schiff busied himself clearing up the books and the files and placing them in the safe. While he was doing that, I placed in the time clocks, the slips to be used next day. I took out the two time slips which were dated April 25, which had been used by the help on Friday, April 25th, and took two slips out to the clock, the ends of which I creased down so that they would fit into the cylinder inside of the clocks; and I noticed that I had neglected to stamp the date on them, so I just wrote on them "April 26, 1913,"—in other words, I put the date of the day following, which is the way we usually do with the time clock. After placing these slips in the clock and bringing those back in the office, Mr. Schiff and myself left for home, it being about 6:30. I neglected to state that while I was sitting in the office, Mr. Schiff was paying off Newt Lee—these are the two time slips I took out—

Gentlemen, as I was saying, these two slips that had April 26th, 1913, written at the bottom are the two slips I put in the clock on the evening of Friday April 25th, to be used on the day following, which, of course, was April 26th. I neglected to mention also, in going over my duties at the factory, that Mr. N. V. Darley was superintendent of labor and of manufacture, it fell to his duty to engage the help and to distribute the help throughout the plant, and to discharge the help in case it was necessary; it was also due to him whether their wages were raised or not. In other words, he was the man that came directly in contact with the help. Moreover, he saw that the goods progressed

through the factory without stopping, easily, quickly and economically manufactured. On Friday evening, I got home at about 6:30, had my supper, washed up, then went with my wife to the residence of her uncle, Mr. Carl Wolfsheimer, on Washington Street, where my wife and Mr. Wolfsheimer and his wife and myself played a game of auction bridge for the balance of the evening. My wife and I returned home and retired at about eleven o'clock. On Saturday April 26th, I rose between seven and seven thirty and leisurely washed and dressed, had my breakfast, caught a Washington Street or Georgia Avenue car,—I don't recall which, at the corner of Washington and Georgia Avenue, and arrived at the factory on Forsyth Street, the Forsyth Street plant, at about 8:30, is my recollection.

On my arrival at the factory, I found Mr. Holloway, the day watchman, at his usual place, and I greeted him in my usual way; I found Alonzo Mann, the office boy, in the outer office, I took off my coat and hat and opened my desk and opened the safe, and assorted the various books and files and wire trays containing the various papers that were placed there the evening before, and distributed them in their proper places about the office. I then went out to the shipping room and conversed a few minutes with Mr. Irby, who at that time was shipping clerk, concerning the work which he was going to do that morning, though, to the best of my recollection, we did no shipping that day, due to the fact that the freight offices were not receiving any shipments, due to its being a holiday. I returned to my office, and looked through the papers, and assorted out those which I was going to take over on my usual trip to the General Manager's office that morning; I then turned to the invoices (Defendant's Exhibit 25 to 34) covering shipments which were made by the Pencil Factory on Thursday, April 24th, and which were typwritten and figured out on Friday, April 25th, by Miss Eubanks, the stenographer who stays in my office; she had hurried through with her work that day, previous to going home, so she could spend the holiday in the country where she lived; I didn't get to checking over those invoices covering these shipments on Friday, due to the fact that Mr. Schiff and myself were completely occupied the entire day until we left the factory, with the pay-roll, so naturally, as these invoices covering shipments which were made on April 25th, ought to have been sent to the customers, I got right to work in checking them. Now, I have those invoices here (Defendant's Exhibit 25-34); these papers have not been exhibited before, but I will explain them. You have seen some similar to these. Of all the mathematical work in the office of the Pencil Factory, this very operation, this very piece of work that I have now before me, is the most important, it is the invoice covering shipments that are sent to customers, and it is very important that the prices be correct, that the amount of goods shipped agrees with the amount which is on the invoice, and that the terms are correct, and that the address is correct, and also in some cases, I don't know whether there is one like that here, there are freight deductions, all of which have to be very carefully checked over and looked into, because I know of nothing else that

exasperates a customer more than to receive invoices that are incorrect; moreover, on this morning, this operation of this work took me longer than it usually takes an ordinary person to complete the checking of the invoices, because usually one calls out and the other checks, but I did this work all by myself that morning, and as I went over these invoices, I noticed that Miss Eubanks, the day before, had evidently sacrificed accuracy to speed, and every one of them was wrong, so I had to go alone over the whole invoice, and I had to make the corrections as I went along, figure them out, extend them, make deductions for freight, if there were any to be made, and then get the total shipments, because, when these shipments were made on April 24th, which was Thursday, this was the last day of our fiscal week, it was on this that I made that financial sheet which I make out every Saturday afternoon, as has been my custom, it is on this figure of total shipments I make that out, so necessarily it would be the total shipments for the week that had to be figured out, and I had to figure every invoice and arrange it in its entirety so I could get a figure that I would be able to use. The first order here is from Hilton, Hart & Kern Company, Detroit, Mich., here is the original order which is in the file of our office, here is the transcription which was made on March 28th, it hadn't been shipped until April 24th, this customer ordered 100 gross of No. 2 of a certain pencil stamped "The Packard Motor Car Company," 125 gross of No. 3 and 50 gross of No. 4; those figures represent the grade or hardness of the lead in the pencils; we shipped 100 gross of No. 2, 111¼ gross of No. 3 and 49 gross of No. 4, the amount of the shipment of No. 3 is short of the amount the customer ordered, therefore, there is a suspense shipment card attached to it, as you will notice, the first shipment on this order took place on April 24th, it was a special order and a special imprint on it, and therefore, the length of time, order received at the factory on March 18th. In invoicing shipments made by the Pencil Company, our method is as follows: We make out in triplicate, the first or original is a white sheet, and that goes to the customers; the second is a pink sheet and that goes over to the General Manager's office and is filed serially, that is, chronologically; one date on the top, and from that the charges are made on the ledger, and the last sheet or third sheet is a yellow sheet, which is here, those are placed in a file in my office, and are filed alphabetically. These yellow sheets I have here are not the yellow sheets I had that day, because they have since been corrected, I am just taking the corrected sheets. I made the corrections, Miss Eubanks returned on Monday and saw the corrections I had made in pencil on the white sheets, and made another set of triplicates afterwards, and I presume made them correct, I was not there, and I don't know. These orders are rspectively Hilton, Hart & Kern Company, L. W. Williams & Company of Fort Worth, Tex., the Fort Smith Paper Company of Fort Smith, Ark., S. O. Barnum & Sons, Buffalo, N. Y., S. T. Warren & Company, South Clarke St., Chicago, Ill., S. H. Kress Company, warehouse at 91 Franklin St., New York, N. Y.; there is an order that we have to be particularly careful with, because all these five and ten cent syndicates have a great deal of red tape. These invoices, though they

were typed on April 25th, Friday, were shipped on April 24th, and bear date at the top on which the shipment was made, irrespective of the date on which these are typewritten; in other words, the shipments took place April 24th, and that date is at the top typewritten, and a stamp by the office boy at the bottom, April 24th. Among other things that the S. H. Kress Company demands is that on their orders, you must state whether or not it is complete, the number of the store, and by which railroad the shipment goes. Here is one from F. W. Woolworth & Company, Frankfort, Ind., take the following illustrations: Less 95 lbs., at 86 cents per hundred lbs., freight credit; in other words, we had to find out what the weight of that shipment was, and figure out the amount of credit that they were entitled to on the basis of 86 cents for every 100 lbs. shipped. Then here comes one to Gottlieb & Sons one of our large distributors in New York, N. Y., they have a freight allowance of 86 per hundred lbs. also, and their shipment amounted to 618 lbs., on Thursday, April 24th. That was a shipment of throwouts, or jobs.

I started on this work, as I said, and had gone into it in some detail, to show you the carefulness with which the work must be carried out, I was at work on this one at about 9 o'clock, as near as I remember, Mr. Darley and Mr. Wade Campbell, the inspector of the factory, came into the outer office, and I stopped what work I was doing that day on this work, and went to the outer office and chatted with Mr. Darley and Mr. Campbell for ten or fifteen minutes, and conversed with them, and joked with them, and while I was talking to them, I should figure about 9:15 o'clock, a quarter after nine, Miss Mattie Smith came in and asked me for her pay envelope, and for that of her sister-in-law, and I went to the safe and unlocked it and got out the package of envelopes that Mr. Schiff had given me the evening before, and gave her the required two envelopes, and placed the remaining envelopes that I got out, that were left over from the day previous, in my cash box, where I would have them handy in case others might come in, and I wanted to have them near at hand without having to jump up and go to the safe every time in order to get them; I keep my cash box in the lower drawer on the left hand side of my desk. After Miss Smith had gone away with the envelopes, a few minutes, Mr. Darley came back with the envelopes, and pointed out to me an error in one of them, either the sister-in-law of Miss Mattie Smith, she had gotten too much money, and when I had deducted the amount that was too much, that amount balanced the pay-roll, the error in the pay-roll that I had noticed the night before, and left about five or ten cents over; those things usually right themselves anyhow. I continued to work on those invoices, when I was interrupted by Mr. Lyons, Superintendent of Montag Brothers, coming in, he brought me a pencil display box that we call the Panama assortment box, and he left it with me, he seemed to be in a hurry, and I told him if he would wait for a minute I would go over to Montag Brothers with him, as I was going over there; and he stepped out to the outer office, and as soon as I come to a convenient stopping place in the work, I put the papers I had made out to take

with me in a folder, and put on my hat and coat and went to the outer office, when I found that Mr. Lyons had already left. Mr. Darley left with me, about 9:35 or 9:40, and we passed out of the factory, and stopped at the corner of Hunter and Forsyth Streets, where we each had a drink at Cruickshank's soda water fount, where I bought a package of Favorite cigarettes, and after we had our drink, we conversed together there for some time, and I lighted a cigarette and told him good-bye, as he went in one direction, and I went on my way then to Montag Brothers, where I arrived, as nearly as may be, at 10 o'clock, or a little after; on entering Montag Brothers, I spoke to Mr. Sig Montag, the General Manager of the business, and then the papers which I collected, which lay on his desk, I took the papers out and transferred them into the folder, and took the other papers out, which I had in my folder, and distributed them at the proper places at Montag Brothers, I don't know just what papers they were, but I know there were several of them, and I went on chatting with Mr. Montag, and I spoke to Mr. Matthews, and Mr. Cross, of the Montag Brothers, and after that I spoke to Miss Hattie Hall, the Pencil Company's stenographer, who stays at Montag Brothers, and asked her to come over and help me that morning; as I have already told you, practically every one of these invoices was wrong, and I wanted her to help me on that work, and in dictating the mail; in fact, I told her I had enough work to keep her busy that whole afternoon if she would agree to stay, but she said she didn't want to do that, she wanted to have at least half a holiday on Memorial Day. I then spoke to several of the Montag Brothers' force on business matters and other matters, and after that I saw Harry Gottheimer, the sales manager of the National Pencil Company, and I spoke at some length with him in reference to several of his orders that were in work at the factory, there were two of his orders especially that he laid special stress on, as he said he desired to ship them right away, and I told him I didn't know how far along in process of manufacture the orders had proceeded, but if he would go back with me then I would be very glad to look for it, and then tell him when we could ship them, and he said he couldn't go right away, he was busy, but he would come a little later, and I told him I would be glad for him to come over later that morning or in the afternoon, as I would be there until about 1 o'clock in the morning, and after three. I then took my folder and returned to Forsyth Street alone. On arrival at Forsyth Street, I went to the second or office floor, and I noticed the clock, and it indicated five minutes after 11 o'clock. I saw Mr. Holloway there, and I told him he could go as soon as he got ready, and he told me he had some work to do for Harry Denham and Arthur White, who were doing some repair work up on the top floor, and he would do the work first. I then went into the office. I went in the outer office, and found Miss Hattie Hall, who had preceded me over from Montag's, and another lady who introduced herself to me as Mrs. Arthur White, and the office boy; Mrs. Arthur White wanted to see her husband, and I went into the inner office, and took off my coat and hat, and removed the papers which I had brought back from Montag Brothers in the folder, and put the folder away.

It was about this time that I heard the elevator motor start up and the circular saw in the carpenter shop, which is right next to it, running. I heard it saw through some boards, which I supposed was the work that Mr. Holloway had referred to. I separated the orders from the letters which required answers, and took the other material, the other printed matter that didn't need immediate attention, I put that in various trays, and I think it was about this time that I concluded I would look and see how far along the reports were, which I use in getting up my financial report every Saturday afternoon, and to my surprise I found that the sheet which contains the record of pencils packed for the week didn't include the report for Thursday, the day the fiscal week ends; Mr. Schiff evidently, in the stress of getting up, figuring out and filling the envelopes for the pay-roll on Friday, instead of, as usual, on Friday and half the day Saturday, had evidently not had enough time. I told Alonzo Mann, the office boy, to call up Mr. Schiff, and find out when he was coming down, and Alonzo told me the answer came back over the telephone that Mr. Schiff would be right down, so I didn't pay any more attention to that part of the work, because I expected Mr. Schiff to come down any minute. It was about this time that Mrs. Emma Clarke Freeman and Miss Corinthia Hall, two of the girls who worked on the fourth floor, came in, and asked permission to go upstairs and get Mrs. Freeman's coat, which I readily gave, and I told them at the same time to tell Arthur White that his wife was downstairs. A short time after they left my office, two gentlemen came in, one of them a Mr. Graham, and the other the father of a boy by the name of Earle Burdette; these two boys had gotten into some sort of trouble during the noon recess the day before, and were taken down to police headquarters, and of course didn't get their envelopes the night before, and I gave the required pay envelopes to the two fathers, and chatted with them at some length in reference to the trouble their boys had gotten into the day previous. And just before they left the office, Mrs. Emma Clark Freeman and Miss Corinthia Hall came into my office and asked permission to use the telephone, and they started to the telephone, during which time these two gentlemen left my office. But previous to that, when these two gentlemen came in, I had gotten Miss Hattie Hall in and dictated what mail I had to give her, and she went out and was typewriting the mail; before these girls finished their telephoning, Miss Hattie Hall had finished the typewriting of those letters and brought them to my desk to read over and sign, which work I started. Miss Clark and Miss Hall left the office, as near as may be, at a quarter to twelve, and went out, and I started to work reading over the letters and signing the mail. I have the carbon copies (Defendant's Exhibit 8) of these letters which Miss Hall typewrote for me that morning here, attached to the letters from the customers, or the parties whose letter I was answering; they have been introduced, and have been identified. I see them here—Southern Bargain House, there was a letter from Shode-Lombard, dye makers, 18 Franklin Street, the American Die Lock Company, Newark, N. J., another letter to Shode-Lombardt Company being in New York, one to Henry Disston & Sons, in reference to a knife which they

sent us to be tried out, a circular knife, one to J. B. McCrory, Five & Ten Cent Syndicate, one to the Pullman Company, of Chicago, Ill., in reference to their special imprint pencils, which they were asking us to ship as soon as possible, one to A. J. Sassener, another die maker; these letters are copies of the ones I dictated that morning; I signed these letters, and while I was signing, as Miss Hall brought these letters in to be signed, I gave her the orders (Defendant's Exhibit 14 to 24) which had been received by me that morning at Montag's office, over at the General Manager's office, I gave her these orders to be acknowledged. I will explain our method of acknowledgment of orders in a few minutes. I continued signing the letters and separating the carbon copies from the letters, and putting them in various places, I folded the letters and sealed the letters, and of course I told Miss Hall I would post them myself. Miss Hall finished the work and started to leave when the 12 o'clock whistle blew, she left the office and returned, it looked to me, almost immediately, calling into my office that she had forgotten something, and then she left for good. Then I started in, we transcribed, first we enter all orders into the house order book (Defendant's Exhibit 12), all these orders which Miss Hall had acknowledged, I entered in that book, and I will explian that matter in detail. There has been some question raised about this, but I believe I can make it very clear. Here is an order from Beutell Brothers Company (Defendant's Exhibit 32); the very first operation on an order that is received by the Pencil Factory at Forsyth Street in my office is the acknowledgment; that is the first operation, because the acknowledgment is the specific second part of the contract, the first part is when they send us the order; that is the party of the first part, and the party of the second part is when we write them an acknowledgment card and agree to fill the order, and enter the order which they send us, and so necessarily, to satisfy our customers, it must be the very first thing that is done, and is the first thing. The acknowledgment stamp, which you have already seen here below, shows first two things; first, who acknowledges the order, and second, the date it was received in the office on Forsyth Street. Here is one from Butell Brothers (Defendant's Exhibit 32); that bears the date April 23rd, up at the top; that was the date when Beutell Brothers in Dubuque, Ia., had that letter typewritten, we didn't know when they mailed it, but that is the day it was written, it was received at the General Manager's office, might have been received Friday, on Friday April 25th, after I had gotten the mail that day there, and remained there until April 26th, when I went over and got the mail again. Here is one from John Laurie & Sons, and here is one I think Mr. Dorsey did some questioning about, because of the fact that up here at the top was 4-22, this order was written in pencil, of course it is written in pencil; this is an order from F. W. Woolworth & Company (Defendant's Exhibit 28), that is a Five & Ten Cent syndicate, as you know, probably the largest in the world, that has over 700 stores, and these stores would be so bulky for one office to handle that the 700 stores are divided into different groups or provinces, and in charge of each group there is a certain office; for instance, there is one at Toronto, for the Canadian stores;

one in Buffalo, one in Boston, one in New York, there is one at Wilkesbarre, one at St. Louis, one at Chicago, and one at San Francisco. Now, this order, by looking at it, I can tell, because I have had reason to look into and know the system of orders used by this syndicate, and I most assuredly have to know it, you notice Chicago, Ill., 4-22, down here, and also store No. 585 (Defendant's Exhibit 28), the Woolworth Company 347 E. Main St., here again is DeKalb, Ill. In other words, DeKalb, Ill., is in the jurisdiction of the Chicago office. These blanks are distributed among these various five and ten cent stores, and the manager of one store, when he wants to order goods, he finds his stock is getting a little low, he makes that out and sends his order in to the Chicago office; at the Chicago office, the buyer looks over it, and sees that the manager has carefully and economically ordered the goods, and then you will notice that little stamp punched through; you see up there, that says: "Valid, 4-23," in other words, of course, we couldn't have put that on there at our office, but the validation stamp, with 4-23, the date of it, shows it took a day to travel from DeKalb, Ill., to Chicago, Ill., and that stamp shows the validation of the order on that date by the head office, and that order is then forwarded by the head office to us. Now, this order is usually made out by the Manager or by the clerk of the Manager or some one in that F. W. Woolworth store. Here is one from Wilkesbarre (Defendant's Exhibit 29), itself, that is from the head office itself. Here is one from St. Joseph, Mo., (Defendant's Exhibit 25), via St. Louis, that bears the validation stamp of the St. Louis head office. You gentlemen understand these people are great big people, a great big syndicate, and they have to do their clerical work according to a system that is correct. Now, then, that was the first operation on these orders after we separated them from the other mail, and we hand that on to our Superintendent. I am showing you about the acknowledgment stamp, because it is important first because it shows the acknowledgment of the order, and who acknowledged it, and secondly, shows the date on which the orders were received at my office. To the best of my recollection, these acknowledgment cards were given to the office boy to post, after Miss Hall had made them out.

Now, in reference to the work that I did on these orders, starting here with order 7187 (Defendant's Exhibit 25 to 35), and continuing through 7197, that is not such an easy job as you would have been led to believe; in the first place, next to the serial number, there is a series of initials, and those initials stand for the salesman who is credited with the order; in other words, if a man at the end of the year wants to get certain commissions on orders that come in, we have to very carefully look over those orders to see to whom or to which salesman or to which commission house or which distributing agent that order is credited, so, therefore, it takes a good deal of judgment and knowledge to know just to which salesman to credit, and sometimes, I can't say that it was incorrect that morning, but it might have been, sometimes I have to go through a world of papers to find just to whom a certain order is to be credited. Then I enter in (Defendant's Exhibit 12) the various orders

here, too, the next column shows to whom the goods are to be shipped; of course that is not very difficult to do, that is just a mere copy. The store numbers are put down in case the stores have numbers, and then one must look over the order; I notice that one of the orders is one to R. E. Kendall (Defendant's Exhibit 34), at Plum St., Cincinnati, O., calling for a special, and that has to be noted in this column here, you will notice regular or special, notice here the word special out here opposite R. E. Kendall, that thing has to be very carefully noted also. Now, in this column (Defendant's Exhibit 12) is the order number, and that order number is the customer's order number, to which we have to refer always when we ship that order. Now, in these cases like on these Woolworth orders, when there is no order number, we put down the date with the month, so in that way that gives it, 4-22, that was the date the order was made out, so we can absolutely refer to it; in this column (Defendant's Exhibit 12), is the shipping point and the date we are going to ship it, and in this column represents the date on which the order was received, and the month, which is April 26th, according to the acknowledgment, corresponding to the acknowledgment stamp. Now, after that work, after the order was acknowledged and entered in here (Defendant's Exhibit 12), the next step is the filling in on the proper place on this sheet (Defendant's Exhibit 2), which has already been tendered and identified. Now, the work done by me on that day right here, that was Saturday, Saturday is the second day of the fiscal week, Friday, Saturday, Sunday, Monday, Tuesday, Wednesday and Thursday,—Saturday is the second day, and you will notice, gentlemen, there are only two entries there (Defendant's Exhibit 7), the work not having been done since I left the factory, there are only two entries there, and the last entry is April 26th, which was Saturday. Now then, the information on this sheet is as follows; I go through the orders and find out the number of gross of pencils which our customers order which fall in certain price groups, that is, to find the number of gross of pencils for which the Pencil Factory gets 60 cents a gross, and I put them down under the first column, the second under the column RI, which means rubber inserted, and for which we get an average price of 80 cents, I go through the same thing and put the figures all out, in this case, it was 102; then we have a price group on which we get an average of $1.25, and it covers a range in price from $1.00 per gross to $1.40; there were 116 gross of such pencils ordered with these orders which were received that morning. The next price group are those on which we figure on an average price of $1.75 a gross, and falling within those limits of $1.50 to $1.95 inclusive; in this case, there were 34½ gross; then there is a group between $2.00 and $2.95, averaging $2.50, and there was 100½ gross that day, then $3.00 and over, which we always figure at just $3.00, we have goods that we get $3.25 for, and some that we get $3.50 for, but we figure them all at $3.00, so it is a conservative estimate. The reason this is done is this; in the pencil business, just like in all manufacturing businesses, that is manufacturing an article that has to be turned out in large quantities, it behooves the sales department to sell as much

of your high priced goods as possible, and as few of your cheap goods, and therefore, if you know how many of the cheap goods and how many of the better grade of goods you are selling, it serves as a barometer on the class of goods that is being sold. You can see that this job takes quite a little figuring and quite a little judgment.

After finishing that work, I went on to the transcription of these orders to these requisitions (Defendant's Exhibit 25 to 35), and notwithstanding an answer that has been made, I wrote these requisitions myself. That is my handwriting and you can read every one of them through. Here is one F. W. Woolworth (Defendant's Exhibit 25), I wrote that one, and another one F. W. Woolworth (Defendant's Exhibit 26), I wrote that one, and another one F. W. Woolworth (Defendant's Exhibit 29). Here is one 5 and 10 Cent Store, Sault Ste Marie (Defendant's Exhibit 31), I wrote that one, and here is F. W. Woolworth, DeKalb, Illinois (Defendant's Exhibit 28), and Logansport, Indiana (Defendant's Exhibit 27). That is all my handwriting; excepting the amounts that are placed down here under the dates when the shipment of these orders were made, which is in the handwriting of my assistant, Mr. Schiff. This part, the amount, date, numbers, address, salesman, date April 26th, and the order number, taking the date in lieu of the order number, as I explained previously, that is all my hand-writing,—everything except that amount there and the subsequent date, that is in my hand-writing and the work on all of those was done on the morning of April 26th.

Miss Hall left my office on her way home at this time, and to the best of my information there were in the building Arthur White and Harry Denham and Arthur White's wife on the top floor. To the best of my knowledge, it must have been from ten to fifteen minutes after Miss Hall left my office, when this little girl, whom I afterwards found to be Mary Phagan, entered my office and asked for her pay envelope. I asked for her number and she told me; I went to the cash box and took her envelope out and handed it to her, identifying the envelope by the number. She left my office and apparently had gotten as far as the door from my office leading to the outer office, when she evidently stopped and asked me if the metal had arrived, and I told her no. She continue on her way out, and I heard the sound of her footsteps as she went away. It was a few moments after she asked me this question that I had an impression of a female voice saying something; I don't know which way it came from; just passed away and I had that impression. This little girl had evidently worked in the metal department by her question and had been laid off owing to the fact that some metal that had been ordered had not arrived at the factory; hence, her question. I only recognized this little girl from having seen her around the plant and did not know her name, simply identifying her envelope from her having called her number to me.

She had left the plant hardly five minutes when Lemmie Quinn, the foreman of the plant, came in and told me that I could not keep him away from the factory, even though it was a holiday; at which I smiled and kept on working. He first asked me if Mr. Schiff had come down and I told him he had not and he turned around and left. I continued work until I finished this work and these requisitions and I looked at my watch and noticed that it was a quarter to one. I called my home up on the telephone, for I knew that my wife and my mother-in-law were going to the matinee and I wanted to know when they would have lunch. I got my house and Minola answered the phone and she answered me back that they would have lunch immediately and for me to come right on home. I then gathered my papers together and went up stairs to see the boys on the top floor. This must have been, since I had just looked at my watch, 10 minutes to one. I noticed in the evidence of one of the witnesses, Mrs. Arthur White, she states it was 12:35 that she passed by and saw me. That is possibly true; I have no recollection about it; perhaps her recollection is better than mine; I have no remembrance of it; however, I expect that is so. When I arrived up stairs I saw Arthur White and Harry Denham who had been working up there and Mr. White's wife. I asked them if they were ready to go and they said they had enough work to keep them several hours. I noticed that they had laid out some work and I had to see what work they had done and were going to do. I asked Mr. White's wife if she was going or would stay there as I would be obliged to lock up the factory, and Mrs. White said, no, she would go then. I went down and gathered up my papers and locked my desk and went around and washed my hands and put on my hat and coat and locked the inner door to my office and locked the doors to the street and started to go home.

Now, gentlemen, to the best of my recollection from the time the whistle blew for twelve o'clock until after a quarter to one when I went up stairs and spoke to Arthur White and Harry Denham, to the best of my recollection, I did not stir out of the inner office; but it is possible that in order to answer a call of nature or to urinate I may have gone to the toilet. Those are things that a man does unconsciously and can not tell how many times nor when he does it. Now, sitting in my office at my desk, it is impossible for me to see out into the outer hall when the safe door is open, as it was that morning, and not only is it impossible for me to see out, but it is impossible for people to see in and see me there.

I continued on up Forsyth to Alabama and down Alabama to Whitehall where I waited a few minutes for a car, and after a few minutes a Georgia Avenue car came along; I took it and arrived home at about 1:20. When I arrived at home, I found that my wife and my mother-in-law were eating their dinner, and my father-in-law had just sat down and started his dinner. I sat down to my dinner and before I had taken anything, I turned in my chair to the telephone, which is right behind me and called up my brother-in-

law to tell him that on account of some work I had to do at the factory, I would be unable to go with him, he having invited me to go with him out to the ball game. I succeeded in getting his residence and his cook answered the phone and told me that Mr. Ursenbach had not come back home. I told her to give him a message for me, that I would be unable to go with him. I turned around and continued eating my lunch, and after a few minutes my wife and mother-in-law finished their dinner and left and told me good bye. My father-in-law and myself continued eating our dinner, Minola McKnight serving us. After finishing dinner, my father-in-law said he would go out in the back yard to look after his chickens and I lighted a cigarette and laid down. After a few minutes I got up and walked up Georgia avenue to get a car. I missed the ten minutes to two car and I looked up and saw in front or Mr. Wolfsheimer's residence, Mrs. Michael, an aunt of my wife who lives in Athens, and there were several ladies there and I went up there to see them and after a few minutes Mrs. Wolfsheimer came out of the house and I waited there until I saw the Washington street car coming and I ran up and saw that I could catch the car. I got on the car and talked to Mr. Loeb on the way to town. The car got to a point about the intersection of Washington street and Hunter street and the fire engine house and there was a couple of cars stalled up ahead of us, the cars were waiting there to see the memorial parade; they were all banked up. After it stood there a few minutes as I did not want to wait, I told Mr. Loeb that I was going to get out and go on as I had work to do. So I went on down Hunter street, going in the direction of Whitehall and when I got down to the corner of Whitehall and Hunter, the parade had started to come around and I could not get around at all and I had to stay there fifteen or twenty minutes and see the parade. Then I walked on down Whitehall on the side of M. Rich & Bros.' store towards Brown and Allen; when I got in front of M. Rich & Bros.' store, I stood there between half past 2 and few minutes to 3 o'clock until the parade passed entirely; then I crossed the street and went on down to Jacobs and went in and purchased twenty-five cents worth of cigars. I then left the store and went on down Alabama street to Forsyth street and down Forsyth street to the factory, I unlocked the street door and then unlocked the inner door and left it open and went on up stairs to tell the boys that I had come back and wanted to know if they were ready to go, and at that time they were preparing to leave. I went immediately down to my office and opened the safe and my desk and hung up my coat and hat and started to work on the financial report, which I will explain. Mr. Schiff had not come down and there was additional work for me to do.

In a few minutes after I started to work on the financial sheet (Defendant's Exhibit 2), which I am going to take up in a few minutes. I heard the bell ring on the time clock outside and Arthur White and Harry Denham came into the office and Arthur White borrowed $2.00 from me in advance on his wages. I had gotten to work on the financial sheet, figuring it out,

when I happened to go out to the lavatory and on returning to the office, the door pointed out directly in front, I noticed Newt Lee, the watchman, coming from towards the head of the stairs, coming towards me. I looked at the clock and told him the night before to come back at 4 o'clock for I expected to go to the base ball game. At that time Newt Lee came along and greeted me and offered me a banana out of a yellow bag which he carried, which I presume contained bananas; I declined the banana and told him that I had no way of letting him know sooner that I was to be there at work and that I had changed my mind about going to the ball game. I told him that he could go if he wanted to or he could amuse himself in any way he saw fit for an hour and a half, but to be sure and be back by half past six o'clock. He went off down the stair case leading out and I returned to my office. Now, in reference to Newt Lee, the watchman, the first night he came there to watch, I personally took him around the plant, first, second and third floors and into the basement, and told him that he would be required, that it was his duty to go over that entire building every half hour; not only to completely tour the upper four floors but to go down to the basement, and I specially stressed the point that that dust bin along here was one of the most dangerous places for a fire and I wanted him to be sure and go back there every half hour and be careful how he held his lantern. I told him it was a part of his duty to look after and lock that back door and he fully understood it, and I showed him the cut-off for the electric current and told him in case of fire that ought to be pulled so no fireman coming in would be electrocuted. I explained everything to him in detail and told him he was to make that tour every half hour and stamp it on the time card and that that included the basement of the building.

Now, this sheet here is the factory record (Defendant's Exhibit 7), containing the lists of the pencils in stock and the amount of each and every number; the amount of each and every one of our pencils which we manufacture at the end of any given week. There are no names there. We make the entries on this sheet by trade notes. Here is a sample case containing the pencils which are manufactured at the Forsyth Street plant. That is just as an explanation of what these figures are.

Well, I expect you have gotten enough of a glance at them for you know that there are a great many pencils and a great many colors, all sorts and styles; all sorts of tips, all sorts of rubbers, all sorts of stamps—I expect there are 140 pencils in that roll. That shows the variety of goods we manufacture. We not only have certain set numbers that we manufacture, but we will manufacture any pencil to order for any customer who desires a sufficient number of a special pencil, into a grade similar to our own pencil. Now, this pencil sheet (Defendant's Exhibit 7) when I looked at it about half past eleven or thereabouts on Saturday morning, was incomplete. It had the entry for Thursday, April 24th, omitted. Mr. Schiff had entered the pro-

duction for April 18th, 19th, 22nd and 23rd, but he had omitted the entry for the 24th, and the 24th not being there, of course it was not totaled or headed, so it became necessary to look in this bunch of daily reports (Defendant's Exhibit 4a, 4b, 4c, 4d) which was handed in every day by the packing forelady, sort out the various pencils noted on there, and place them in their proper places. Before proceeding further on that, I want to call your attention to the fact that we use this sheet (Defendant's Exhibit 7) for two weeks. You notice two weeks ending down there April 27th, April 17th, and one ending the week later, April 24th, Mr. Schiff, I notice, put April 17th at the top and the date corresponds to the entries here on the side; these are the dates alongside of each entry. Now, where we have any special pencil, as a general rule—for instance, take two 10-X special up there; we manufacture two 10-X special for the Cadillac Motor Company. Now, there is a 660-X pencil (Defendant's Exhibit 7); that 660-X pencil we call Panama, but in this entry it is called Cracker-Jack. Now, here is another 660-X special (Defendant's Exhibit 7), ours being Panama and this the Universal 660-X special. In other words, gentlemen, we put the name of the customer, if he wants business in a sufficient quantity. Well, I had to go through this report for Thursday (Defendant's Exhibit 4a), handed in by Miss Flowers, the forelady of the packing department, as she said, on Friday; I had to go through it and make the entries. Now, after I made the entries, I had to total each number for itself; that is, the number of 10-X, 20-X, 30-X, etc. Now, I notice that both of the expert accountants who got on the stand, pointed out two errors. While those errors are trivial, yet there is enough of human pride in me to explain that those errors were not mine. Those errors, one of one and a half gross and one of one gross, in totalling up, these totals here on the 18th and 19th—those entries were made by Mr. Schiff. I don't expect he meant to make an error, but they happen to be in his handwriting. Those totals were already down there for the various days when I got the sheet and I always take them as correct without any checking of his figures. The only figures that I check are my own figures. I add my correct figures to his figures and of course, not having checked the figures, I had to assume he entered it correctly, so I would not have known it. As I say, my usual method is to take his figures as correct per se. Now, after I entered them in the total, the next thing I did was to make out the job sheet; the job or throw-outs. Now in regard to these jobs, if I recall it correctly, was the only error that the expert accountant found in my work on the financial sheet for that day, but it really was not an error, as I will show you. He didn't know my method of doing that, and therefore, he could not know the error. When I explain to you fully the method in which I arrived at these figures you also will see they are not in error. Now among the packing reports that are handed into the office just like Miss Eula May handed this (Defendant's Exhibit 4a) in from the packing room proper, there is another room where pencils are packed, viz.: the department under the foreladyship of Miss Fannie Atherton, head of the job department. The jobs are our seconds or throw-outs

for which we get less money, of course, than for the first. You see that Fannie A (Defendant's Exhibit 4B), that is Fannie Atherton. That is the job department. Now, I took each of those job sheets (Defendant's Exhibit 4B) and separated them from the rest of those sheets, finding out how many jobs of the various kinds were packed that week. Now, this sheet (Defendant's Exhibit 3) shows that there were 12 different kinds of jobs packed that day. Each of them, you will notice, has a different price. That is the number of jobs 0-95, or the number of job 114 (Defendant's Exhibit 3); that is the number of the job, not the amount, but the number by which it is sold. Out here (Defendant's Exhibit 3) you see the amount of that job which was packed; 180 gross, one gross, six gross, 24 gross, etc. Then you will find the actual price we received for each. Then I make the extensions and find the number of gross of pencils, 180 gross at 40 cents, of course, is $72.00 (Defendant's Exhibit 3). In other words, there is the actual number of jobs packed that day, the price we actually got for them, and the extensions are accurate and the totals are correct; the total amount of gross is totaled correctly, the total gross packed and the total amount of the value of those gross are the two figures that are put on that financial report (Defendant's Exhibit 2), 792 gross jobs, $396.75 (Defendant's Exhibit 3), being absolutely correct, but in getting the average price, you notice 50.1 cents down below here (Defendant's Exhibit 3), I just worked it approximately, because nobody cares if it cost so small a fraction—the average price of those jobs, 50.1 cents, and six hundredths—that six hundredths was so small I couldn't handle it, so I stopped at the first decimal. Now, in arriving at the total number of gross and the total value of pencils, which are the two figures really important, I divided one by the other. I also used, in getting up the data for the financial sheet, by the way, one of the most important sheets is this very little sheet here (Defendant's Exhibit 3). It looks very small, but the work connected with it is very large. Now, some of the items that appear on here are gotten from the reports which are handed in by the various forewomen. Now, you saw on the stand this morning Mr. Godfrey Winekauf, the sueprintendent of the lead plant; there is a report (Defendant's Exhibit 4C) of the amount of lead delivered that week, two pages of it; the different kinds of lead, No. 10 lead, No. 940, No. 2 and No. 930, and so on. Now, here is a pencil with a little rubber stuck on the end; we only put six inches of lead in that, and stick rubber in the rest. Now here (Defendant's Exhibit 4D) is the report of L. A. Quinn, foreman of the tipping plant. He reports on this the amount of work of the various machines, that is, the large eyelet machine, the small eyelet machine and the other machines. Then he notates the amount of the various tips used that he had made that week. Now, we have, I expect, 22 different kinds of tips, and one of them is a re-tip, and we never count a retip as a production. Now, this was made out (Defendant's Exhibit 7) for the week ending April 24th by Mr. Irby, the shipping clerk, that is, the amount of gross of pencils that he ships day by day. There were shipped 266 gross the first day, which was Friday in this case, Friday the

18th of April, 562 gross the 2nd day, which was Saturday, a half day, the 19th of April; 784 gross on Monday, which was April 21st; 1232 gross (that was an exceptional day) were shipped on Tuesday April 22nd; 572 gross shipped on Wednesday, April 23rd, and 957 gross, also a very large day, shipped on April 24th, a total of 4374 gross. Now, there is another little slip of paper (Defendant's Exhibit 4AA) here that requires one of the most complicated calculations of this entire financial, and I will explain it. It shows the repack, and I notice an error on it here, it says here 4-17, when it ought to be 4-18; in other words, it goes from 4-17 through 4-24. That repack is gotten up by Miss Eula May; you will notice it is O. K.'d by her. Miss Eula May Flowers, the forelady, packed that; that is the amount of pencils used in our assortment boxes or display boxes. That is one of the tricks of the trade, when we have some slow mover, some pencil that doesn't move very fast, we take something that is fancy and put some new bright looking pencils with them, with these slow movers. That is a trick that all manufacturers use, and in packing these assortment boxes, which are packed under the direction of Miss Flowers, we send into the shipping room and get some pencils which have already been packed, pencils that have been on the shelf a year for all we know, and bring them in and unpack them and re-pack them in the display box. Therefore, it is very necessary in figuring out the financial sheet to notice in detail the amount of goods packed and just how many of those pencils had already been figured on some past financial report. We don't want to record it twice, or else our totals will be incorrect. Therefore, this little slip showing the amount of goods which were repacked is very necessary. That was figuerd by me, and was figured by me on that Saturday afternoon, April 22nd. There were 18 gross of 35-X pencils selling for $1.25; 18 gross for $22.50. It shows right here, I figured that out. That is my writing right down there. Eighteen gross 35-X, $1.25, $22.50; 10 gross of 930-X figuring at $25.00; that added up, as you will see, to $70.00. In other words, there were 46 gross of pencils, 36 gross of which sell in our medium price goods; 86 gross 35-X; 10 gross 930-X, $2.50, that is a high price goods. Therefore, the repack for that week was 36 gross medium priced goods and 10 gross of high price goods. I will show you now where the $70.00 is and where the 36 gross is, and where the 10 gross figured in the financial sheet. There is a little sheet (Defendant's Exhibit 7A) stuck up here in the corner attached to the record—the factory record of pencils manufactured during that week. That shows the production, divided into the following classes (Defendant's Exhibit 7A); cheap goods, the very cheapest we make, outside of jobs, those we figure at 60 cents a gross. Then there is the rubber insert, those we figure 85 cents a gross, and then the job and then the medium; the medium being all goods up to a certain grade that contains the cheap lead, and the good being all those that contain a better class of lead. In this case, Mr. Schiff had entered it up to and through Wednesday, and had failed to enter Thursday, and I had to enter Thursday, and to figure it. This sheet (Defendant's Exhibit 7A) shows the total of the three classes of goods packed

from day to day. Now, I have had very few clerks at Forsyth Street, or anywhere else, for that matter, who could make out this sheet (Defendant's Exhibit 2) successfully and accurately. It involves a great deal of work and one has to exercise exceptional care and accuracy in making it out. You notice that the gross production here (Defendant's Exhibit 2) is 2765½. That gives the net production. The gross production is nothing more than the addition, the total addition, the proven addition of those sheets containing the pencils packed. This other little sheet (Defendant's Exhibit 7A) behind here represents the pencils packed the week of April 17th—that week's production. Now, this little sheet I had to work on, showing the pencils that were repacked, going into the display boxes, and the numbers, and subtracted that from the total amount 46 from 2765½, which leaves 2719½; in other words, I just deducted the amount that had been taken out of the stock room and repacked from the total amount that was stated to be packed, showing the amount of repacked goods. Now all I had to do was to copy that off, it had been figured once. The value of the repack was $70.00; that was mere copying. Now, the rubber insert entries, I got those that morning, the number of pencils packed during the week ending April 24th; that is Thursday, April 24th; that insert rubber is a rubber stuck directly into wood with a metal tip or ferret to hold it in. I have to go through all of this data, that being an awfully tedious job, not a hard job, but very tedious; it eats up time. I had to go through each one of these, and not only have to see the number, but I have to know whether it is rubber insert or what it is, and then I put that down on a piece of scratch paper, and place it down here, in this case it was 720 gross. Then the rubber tipping, that means tipped with rubber; that is the rubber that is used on the medium priced pencils that have the medium prices, we ship with the cheap shipping. I had to go through this operation again, a tedious job, and it eats up time; it is not hard, but it is tedious. I had to go through that again, to find out the amount of tip rubber that was used on this amount of pencils. Then I had to go through the good pencils. Now, it has been insinuated that some of these items, especially this item, if I remember correctly—that when I have gotten two of the items, I can add it all up and subtract from the total to get the third by deduction, but that is not so. Of the pencils that still remain unaccounted for, there are many pencils that don't take rubber at all. There are jobs that don't take rubber on them, plain common pencils, going pencils that don't have rubber on them at all, and I have to go through all of that operation, that tedious operation again that eats up so much time. Then there is the lead of the various kinds that we use; there is good lead and cheap lead, the large lead and the thick or carbon lead, and the copying lead. That same operation has to be gone through with again. Now this sheet (Defendant's Exhibit 3) (exhibiting) is where the expert accountant said I made a mistake. I had to go through with each of those pencils to see if they were cheap rubber or if they were good lead or copying lead. So I had to go through this same operation and re-add them to see that the addition is correct before I

can arrive at the proper figure. The same way to find the good lead and the cheap lead, the large lead and the copying lead; that operation had to be gone through in detail with each and every one of those, and the same with each of the boxes, and that is a tough job. Some of the pencils are packed in one gross boxes and some in half-gross boxes, and, as I say, we use a display box, and there are pencils that are put in individual boxes, and we have to go through carefully to see the pencils that have been packed for the whole week, and it is a very tedious job. Now in these boxes there is another calculation involved, and then I have to find the assortment boxes, but that is easily gotten. Then I have to find out whether they are half-gross boxes or one-gross boxes, and then reduce them to the basis of boxes that cost us two cents apiece; reduce them to the basis of the ordinary box that we paid two cents a box. After finding out all the boxes, then I have to reduce that to some common factor, so I can make the multiplication in figuring out the cost at two cents. That involves quite a mathematical manipulation. Then I come to the skeleton. Skeletons are no more than just a trade name. They are just little cardboard tiers to keep one pencil away from the other, that is all a skeleton is. I have to go through and find out which pencils are skeletons. If it is a cheap pencil they are just tied up with a cord, and there are pencils in a bunch, and there are pencils that we don't use the skeleton with. That must all be gone through and gotten correctly, or it will be of no worth. Then comes the tip delivery, which is gotten from this report from Mr. Lemmie Quinn that I showed you before. Then there is another entry on this sheet of the tips used and I can give you a clear explanation of the manner that I arrive at that. You can't use tips when you don't have some rubber stuck in it, so I just had to go through the rubber used to find that. Then we have what we call ends; there are a few gross of them there. Then the wrappers. Pencils that are packed in the individual one dozen cartoons don't take wrappers; they are in a box. Pencils that are packed in the display boxes don't take a wrapper; they just stick up in a hole by themselves. The cheap pencils are tied with a cord and they don't take any wrapper, so the same operation, the same tedious operation, had to be gone through with that to get at the number of wrappers, and then the different number of gross and the number of cartoon boxes used in the same way. On the right hand side of this sheet you notice the deliveries. There is the lead delivery from the Bell Street plant and the Forsyth Street plant. This doesn't mean the amount of lead used in the pencils packed for this week only, but it shows the amount of our lead plant delivery, for information. Then the slat delivery, that is not worked out that week; that is not worked out simply because that is Mr. Schiff's duty to work that out and that is a very tedious and long job and when I started in to do that I couldn't find the sheet showing the different deliveries of slats from the mill, so I let that go, intending to put that in on Monday, but on Monday following I was at the police station.

I took out from this job sheet (Defendant's Exhibit 3), the correct amount of gross packed—791 as figured there—correct value $396.75, as shown on this sheet, and the average is that one, that I didn't carry out to two decimal places; I didn't carry it to but one. Then from the pay-roll book I got the pay-roll for Forsyth Street and Bell street, and then as a separate item took out from the pay-roll book total, separate the machine shop, which that week was $70.00. The shipments (Defendant's Exhibit 6), were figured for the week ending April 24th on this sheet, as far as I—oh, you notice the entry of the 24th; those are those invoices, the first piece of work that I explained to you, sitting up there; I explained that from the chair, and couldn't come down here; that's the piece of work that I explained to you how we did it in triplicate. That's the work that I did that morning, and completed, as I told you, that each of the invoices was wrong, and I had to correct them as I went along, simply because I needed it on the financial, and there's where I entered it on the sheet as shipments; (Defendant's Exhibit 6); I needed that so as to make the total; and that's where I entered it—(Defendant's Exhibit 6)—shipments, the 24th, on this sheet (Defendant's Exhibit 6), during the afternoon $1,245.57, and totalling it up, the pencil factory shipped that week $5,438.78. Those amounts you see are entered right in there, and the amount of shipments is gotten from this report $4,374.00 handed in by Mr. Irby, and the value of the shipments are gotten from this sheet, the last entry on which I had to make.

Then the orders received. The entry of the orders received that day involved absolutely no more work on my part than the mere transfer of the entries. On this big sheet (Defendant's Exhibit 2), I have here the orders received are in terms of "total gross" and "total value," and we need that to compare the amount of shipments with the amount of orders we are receiving to see whether we are shipping more than we are receiving, or receiving more than we are shipping. That amount is given here. Down there it tells you the total amount of dollars and cents of all the orders received, total gross, and the average. The average is important, though it is usually taken over on a separate paper on Friday morning to Mr. Sig Montag so that he knows how sales for the week have come out long before he receives the financial. He didn't receive the financial usually until Monday morning, when I go over there.

Now one of the most intricate operations in the making up of the financial report is the working out of the figures on that pencil sheet, as shown by that torn little old sheet here, (Defendant's Exhibit 3), that data sheet. Now with this in hand, and with that pencil sheet record of pencils packed (Defendant's Exhibit 7), the financial report is made out. This sheet (Defendant's Exhibit 2), the financial, I may say is the child of my own brain, because I got it up. The first one that ever was made I made out, and the fact that there is a certain blue line here, and a certain red line there, and a black

line there, and certain printing on it, is due to me, because I got this sheet up myself. On one side you notice "Expense," or two main headings "Expense," "Materials." Together they comprise the expense for the week. On the other side, like the debit and credit sides of a ledger, is the "Value," "Gross Value" of the goods, which have been packed up during a given week. Down here below you will notice "Less Repacked." You remember the repacked, that I told you about, the pencils taken out of stock and repacked to make them move better. That value is deducted, so that it won't allow error to enter into this figure. Then we take off 12 per cent. down at the bottom. That 12 per cent. allows for freight allowances, cash discounts, and possibly other allowances, and gives us the net value or the net amount of money for those pencils, which the treasury of the Pencil Company receives in the last analysis.

On the other side is the materials, the cost of materials, that went into the making of those pencils, based on the amounts and kinds of pencils, which of course, as in this instance, comes from the data sheet.

The first item under "Expense" items is "Labor," and the labor is divided, as you all know, into the two classes, direct and indirect. The direct labor is that which goes directly into the making of the pencils themselves, and the indirect constitutes the supervising, shipping, office, clerical help, and so forth. These figures are brought directly from the pay-roll. The indirect labor, however—as in this case $155.00—is an empirical figure, a figure, which we have found out by experiment to be the correct figure, and we arbitrarily decide on it, and keep it until such time as we think we ought to change it and then change. The burden that a business has to carry is the fixed charges, the expense that it carries, irrespective of whether it will produce two gross or 200,000 gross, like rent, insurance, light, heat, power, and the sales department. The sales department expense usually goes on whether the salesman sells little or big bills; his salary goes on and his expense goes on. Rent, heat, light, power, sales department men, and all that, is figured out, as you could find by looking back, continuously from week to week, and there is no work other than jotting it down to figure in this total.

The repair sundries is also arbitrary at $150.00. The machine shop, however, is available. It appears alongside of "Investment." "Investment" is crossed out, and "Machine Shop" written in. There is a reason for that. The time was at the inception of our business when every machine built by us was so much additional added to the value of our plant. In other words, it was like investing more money in it, in the plant, but the time came, when we quit making machines, and then we simply kept them in repair, and we charged that to expense, crossing out "Investment" and putting down "Machine Shop" as an expense item.

The material is arrived at on the basis, gross, net. The gross basis is the total amount of pencils packed, as per the packing reports handed in by Miss Eula May Flowers, and the net basis is the total amount, total gross, packed by report of Miss Eula May Flowers less the amount of repacked, of which I have spoken. In this case the gross amount was 2,851 gross, net 2,830 1-2 gross, the smaller being the net figure. The slats are figured at 22 cents per gross, and that's simply taking the 2,830 1-2 gross down to the slat item, and multiplying that by 22 cents, and putting it down to the materials. Then from the figures derived from the packing reports we figure rubbers used according to the character or grade of the pencil manufactured; 6 1-2 cents cheapest, 9 cents medium, 14 cents high grade. Then comes the tips. The tips is simple, gotten by adding together the amounts of rubber used in ferrules, the medium rubber, and the better class of rubber. In other words, it's gotten by adding together the rubber at 9 cents a gross, and the rubber at 14 cents a gross, and adding together the total amount of gross used. And you see it says "materials," and it is reckoned at 10 cents; in other words, the materials used in making the tips in that tip plant we figured at 10 cents a gross, and the labor is included in that pay-roll item up above. Then there is 25 gross of these medium ends.

Then the lead, which is used, is taken from this sheet, multiplying 15 cents for the better lead and 10 cents for the cheaper lead. Then 5 cents a gross has been figured out after months of careful keeping track of what we use to include such materials as shellac, alcohol, lacquer, aniline, waxent, and oils—that's oils used in manufacture, not for lubrication of transmission or machinery. It also includes that hascolene compound, of which we have heard so much. That's included in this 5 cents per gross.

Then comes the boxes at 2 cents a gross, then assortment boxes at an average of 4 cents a gross; then come wrappers at one cent a gross; that is the number of wrappers used in wrapping up one gross of pencils are worth one cent. Then cartoons, boxes, holding one gross of pencils, figured at 28 or 18 cents. Then down below "pay-roll Bell Street, $175.21." Then show what was delivered, just a plain copy of what I have on this sheet. I have been looking at the sheet for the week ending April 17th, but it is practically the same way. I have here down on the bottom of this financial (Defendant's Exhibit 2) made out on the 26th what's delivered, good and cheap. There is no entry there. You will remember I said I didn't work that out. I put that out there preparatory to working that out Monday morning before I would take it over. Then it tells tips delivered from Mr. Quinn's report.

Now on the right side you will notice this entry, "Better grades, gross, net." From this small sheet we get total of better grades, 710 gross. Then right below it says 700 gross net. There are 710 gross, and on that repacked sheet I called out there 10 gross good goods repacked, therefore the difference

of 10 gross. Then we look on down this pencil sheet, cut down each and every one of the items accordingly—you will notice in some places I marked some items, "142 1-2 2-10-X"—and so on down the sheet. In this case there were 29 or 30 different items, all of which had to have the prices correctly traced down, extensions correctly made, checked, re-checked, added up, and totaled, and checked back, and there pack had to be deducted, after which the 12 per cent. had to be figured out, and deducted, giving the net value of the production for that week. Then we take the net value of the production that week, and from it take the total amount of expense, and materials used, the expense including labor, rent, light, insurance, and so forth, and, if this expense is greater than the value of the pencils, then the factory has operated that week at a loss. In this case a deficit shows, showing that that week we operated at a loss. The shipments were gotten off down there from this sheet. Those are my initials on the top.

Now, besides the making of this large sheet (Defendant's Exhibit 2) proper, there is in the making of the financial report three other sheets, that I usually make out. Now one of those little sheets, that are usually made—and I want to call your attention to the fact that I didn't typewrite this; I just filled these figures in; I am no typewriter; I can not operate a machine; I have two or three dozen of those every now and then typewritten together, and keep them in blank in my desk; I didn't typewrite those on that day, or any other day; I just filled those figures in those blanks—this is the sheet (Defendant's Exhibit 11), called the comparison sheet between 1912 and 1913, which is nothing more nor less than taking the vital figures, the vital statistics of one week of 1913, and comparing them with the same week of 1912, to see how we have improved or gone backward every week one year apart. Of course the putting of these down involves going back into the proper week in this folder, and getting that out. However, I noticed the week in 1912 corresponding with the week of April 24th in 1913, was a week of 45 hours instead of 50 hours.

In addition to that, I made out two condensed financial reports, (Defendant's Exhibits 43 and 46), that is, give the main figures. I didn't typewrite this sheet, either; as I say, I can not operate a machine. I just filled in the figures, which have to be picked out from this large financial report, fill them in for the week ending—that does not show the date it was made, but it shows for the week ending April 24th, the production in dollars, the total expenditure in dollars, the result, which in this week, as I wrote in "deficit" in dollars; show the shipments, which in this week were very good, and the orders received, which were gotten from that great big sheet. These were enough figures for a director or stockholder of the Company to receive, and are practically the only figures he is interested in. He don't care to hear how much we make of this pencil or that pencil. The only thing he is interested in is dividends, if we are able to give them to him. One of these sheets

I always make out and mail to Mr. Oscar Pappenheimer (Defendant's Exhibit 46), who was formerly a member of the Board of Directors, though he is not now. The other sheet (Defendant's Exhibit 43), I always invariably sent to my uncle, Mr. M. Frank, no matter where he is, who is president of the company. On this particular Saturday, my uncle had during the week ending April 26th, gone to New York, stopping at Hotel McAlpin, preparatory to taking his annual trip abroad for his health, he being a sick, feeble old man. When I made out that financial, I really made out two small ones, and I put one (Defendant's Exhibit 46), in an envelope, addressed it to Mr. Oscar Pappenheimer, care Southern Furniture Company, Atlanta, Georgia; the other one (Defendant's Exhibit 43) was put in this envelope, which you see right here, and sent to my uncle, Mr. M. Frank, together with a letter, (Defendant's Exhibit 42), which I wrote him, after having finished the financial sheet, the sheet showing the comparison of vital statistics for the same weeks of 1912 and 1913, and after having completed these two small condensed financial reports. I wrote that letter (Defendants Exhibit 42) to my uncle, and I sent him that report (Defendant's Exhibit 43), and also sent a price list, to which I referred in that letter; hence the size of the envelope, (Defendant's Exhibit 44). I am going to show you one of those price lists. Its a great big sheet when it is folded up, it is much too large for the ordinary size; hence the reason I used a great big envelope like that. I addressed that letter to my uncle, Mr. M. Frank, care Hotel McAlpin, Greely Square, New York, N. Y., as has been identified.

This ends practically the work on the financial. After finishing the financial, I wrote these letters, and sealed them, and placed them aside to post, After finishing the financial, I folded this big report up (Defendant's Exhibit 2), and put it with the comparison sheet (Defendant's Exhibit 11) for the week of 1912 and the same week of 1913 in a large envelope, addressed it to Mr. Sig Montag, General Manager of the Pencil Company, and put it under my inkwell, intending to take it over on the morning of Monday following.

I then came to the checking up of the cash on hand and the balancing of the cash book. For some reason or other there are no similar entries in this book after those of that date. That's my handwriting (Defendant's Exhibit 40), and I did that work on Saturday afternoon, April 26th, as near as might be between the hours of 5:30 and 5 minutes to 6:00. Now in checking up it didn't take me an hour and a half. I did that in about 25 minutes. In checking up the cash the first thing to do is to open the cash box. We have a little coin bag in there, and there was in cash actually on hand that day about $30.54; that's all there was. That's all there could have been, and that $30.54 was to the best of my recollection composed of about three dollars in one dollar bills, about four or five dollars in quarters and halves, and the balance dimes, nickels, and one-cent pieces. That's some job to count that, not only to count it, but to separate the different denominations, and stack it up into

stacks of a dollar. I did that, stacked them up, checked them, and re-checked them, and I took a piece of paper—haven't that paper—and jotted down the amounts. To that had to be added the amount that was loaned. In this case there was only one loan, that which I loaned to Mr. White that afternoon. That would eventually come back to the cash box. If there had been any errors in the payroll the night previous, I would have had to make it good from the cash box, and it would have gone under the item of "extra pay-roll." I don't know whether that occurred this week or not. However, I added up the total cash I actually had on hand then—$28.54—and that $2.00 loaned to Mr. White brought it up to $30.54, the actual amount which the cash book showed. Now on the left-hand side of this book, the debits for the week between April 21st, which was Monday, previous to April 26th, it being a record simply of the petty cash used by us, showed that we had a balance on hand the Monday morning previous of $39.85. On April 22nd we drew a check for $15.00, and on April 24th we drew another one for $15.00. I mean by that that we would draw a check for $15.00, and go over to Mr. Sig Montag to sign it; so that during that week all we got from the treasury was $30.00, and $39.85 already on hand, made $69.85, which was the total amount we had to account for. When we spend, of course we credit it. There once was a time, when, as we paid out money, we would write it down on this book. We found it was much better however, to keep a little voucher book (Defendant's Exhibit 10) and let each and every person sign for money they got, and we have not only this record (Defendant's Exhibit 40) but this record on the receipt book (Defendant's Exhibit 10). The first entry on this is 15 cents there—on the 19th of April the National Pencil Company gave 15 cents to Newt Lee for kerosene (Defendant's Exhibit 10). Newt Lee's name is there, but he didn't write it. I wrote it; my initials are on it. He was there when he got the money, but I thought he couldn't write, and I signed his name. Whenever I sign anybody's name, my initials are under it. The next item is 75 cents for typewriter rent (Defendant's Exhibit 10); next item $2.00 drayage 24th of April. That is Truman McCrary's receipt—he has a very legible handwriting, and one of the little stamps stamped on there. The next item is for cases; some negro signed his name down there. So on throughout the book (Defendant's Exhibit 10), cases, express, drayage, postage, parcels post, etc. Now, after counting the money, finding how much actual cash there was in the cash box, the next thing I do is to take this little voucher book, and lumped the different items that were all alike together. This sheet (Defendant's Exhibit 41) has been identified and explained, and you notice that there were four items of drayage grouped together, the total being $6.70. I just extend that over to the right there $6.70. Then I don't have to put drayage down in this book (Defendant's Exhibit 40) four times; just make one entry of drayage for the four times we paid drayage together, which gives the same total, and makes the book a great deal neater. So on throughout, five items of cases, two items of postage, two items of parcels post, one item of two weeks' rent on an extra typewriter, 45 cents for supplies for Mr. Schmee-

gas' department, foreman on the third floor, 85 cents for the payment of a very small bill to King Hardware Company, $11.50 to a tinsmith for a small job he had done, 5 cents for thread, and ten cents for carfare one item. Then this young man, Harold Wright, of whom I spoke, omitted from the payroll. I added this up, and that was $39.31, and transferred it from here (Defendant's Exhibit 41) to there (Defendant's Exhibit 40). I then made the balance in the usual way, checking it against the money on hand, that I had in the cash box that night, and after checking and re-checking it, and finding no money missing from any source that we could trace, found that it was $4.34 short of the cash box, which was due to shortage in payroll in the past three months.

4:35 P. M.

I finished this work that I have just outlined at about five minutes to six, and I proceeded to take out the clock strips from the clock which were used that day and replace them. I won't show you these slips, but the slips that I put in that night were stamped with a blue ink, with a rubber dating stamp, "April 28th (Defendant's Exhibit 1), at the bottom, opposite the word "date." Now, in reference to these time slips and the reason that the date April 28th was put on these slips, which was put in the clocks that night,—Saturday night,—no one was coming down to the factory on Sunday, as far as I knew, or as far as custom was, to put the slips into the clocks, and, therefore, we had to put the slips into the clock dated with the date on which the help were coming into the factory to go about their regular duties and register on the Monday following, which, in this case was April 28th. Now on one of these slips, Newt Lee would register his punches Saturday night, and on Sunday night he would register his punches on the other. His punches on Monday night would be registered on two new slips that would be put into clock on Monday night. As I was putting these time slips into the clock, as mentioned, I saw Newt Lee coming up the stairs, and looking at the clocks, it was as near as may be six o'clock,—looking straight at the clock—; I finished putting the slip in and went back to wash up, and as I was washing, I heard Newt Lee ring the bell on the clock when he registered his first punch for the night, and he went down stairs to the front door to await my departure. After washing, I went down stairs,—I put on my hat and coat—got my hat and top coat and went down stairs to the front door. As I opened the front door, I saw outside on the street, on the street side of the door, Newt Lee in conversation with Mr. J. M. Gantt, a man that I had let go from the office two weeks previous. They seemed to be in discussion, and Newt Lee told me that Mr. Gantt wanted to go back up into the factory, and he had refused him admission, because his instructions were for no one to go back into the factory after he went out, unless he got contrary instructions from Mr. Darley or myself. I spoke to Mr. Gantt, and asked him what he wanted, he said he had a couple of pairs of shoes, black

pair and tan pair, in the shipping room. I told Newt Lee it would be alright to pass Gantt in, and Gantt went in, Newt Lee closed the door, locking it after him,—I heard the bolt turn in the door. I then walked up Forsyth Street to Alabama, down Alabama to Broad Street, where I posted the two letters, one to my uncle, Mr. M. Frank and one to Mr. Pappenheimer, a few minutes after six, and continued on my way down to Jacobs' Whitehall and Alabama Street store, where I went in and got a drink at the soda fount, and bought my wife a box of candy. I then caught the Georgia Avenue car and arrived home about 6:25. I sat looking at the paper until about 6:30 when I called up at the factory to find out if Mr. Gantt had left. I called up at 6:30 because I expected Newt Lee would be punching the clock on the half hour and would be near enough to the telephone to hear it and answer it at that time. I couldn't get Newt Lee then, so I sat in the hall reading until seven o'clock, when I again called the factory, this time I was successful in getting Newt Lee and asked him if Mr. Gantt had gone again, he says, "Yes," I asked if everything else was alright at the factory; it was, and then I hung up. I sat down and had supper, and after supper, I phoned over to my brother-in-law, Mr. Ursenback, to find out if he would be at home that evening, I desired to call on him, but he said he had another engagement, so I decided to stay home, and I did stay home reading either a newspaper or the Metropolitan magazine that night. About eight o'clock I saw Minola pass out on her way home. That evening, my parents in law, Mr. and Mrs. Emil Selig, had company, and among those present were Mr. and Mrs. Morris Goldstein, Mr. and Mrs. M Marcus, Mrs. A. E. Marcus and Mrs. Ike Strauss; Mr. Ike Strauss came in much later, something after ten o'clock, I believe. I sat reading in the hall until about a quarter to ten, when I lighted the gas water heater preparatory to taking a bath, and then continued reading in the hall; at 10:30 I turned out the gas, went into the dining room, bade them all good night, and went upstairs to take my bath, a few minutes later, my wife followed me upstairs.

(Here the jury took a recess.)

I believe I was taking a bath when you went out,—on Saturday night; and after finishing my bath, I laid out my linen to be used next day, my wife changed the buttons from my old shirt to the shirt I was to wear the following morning, and I retired about eleven o'clock. The next day, Sunday, April 27th, I was awakened at something before seven o'clock, by the telephone ringing. I got out of bed,—was tight asleep, it awaked me,—but I got out of bed, put on a bath robe and went down to answer the telephone, and a man's voice spoke to me over the phone and said—I afterwards found out this man that spoke to me was City Detective Starnes—said "Is this Mr. Frank superintendent of the National Pencil Company?" I says "Yes, sir," he says, "I want you to come down to the factory right away," I says, "What's the trouble, has there been a fire?" He says, "No, a tragedy, I want you to come down right away;" I says, "All right," he says, "I'll send an automomible for you," I says, "all right," and hung up and went upstairs to dress. I was in the midst of dressing to go with the people who

should come for me in the automobile, when the automobile drove up, the bell rang and my wife went down stairs to answer the door. She had on,—just had a night dress with a robe over it. I followed my wife—I wasn't completely dressed at that time,—didn't have my trousers or shirt on, and as soon as I could get together,—get my trousers and shirt on,—I went down stairs—followed my wife in a minute or two. I asked them what the trouble was, and the man who I afterwards found out was detective Black, hung his head and didn't say anything. Now, at this point, these two witnesses, Mr. Rogers and Mr. Black differ with me on the place where the conversation occurred,—I say, to the best of my recollection, it occurred right there in the house in front of my wife; they say it occurred just as I left the house in the automobile; but be that as it may, this is the conversation: They asked me did I know Mary Phagan, and I told them I didn't, they then said to me, didn't a little girl with long hair hanging down her back come up to your office yesterday sometime for her money,—a little girl who works in the tipping plant?" I says, "Yes, I do remember such a girl coming up to my office, that worked in the tipping room, but I didn't know her name was Mary Phagan." "Well, we want you to come down right away with us to the factory;" and I finished dressing, and as they had said they would bring me right away back, I didn't have breakfast, but went right on with them in the automobile, made the trip to the undertaking establishment very quickly—I mean, they made the trip down town very quickly, and stopped at the corner of Mitchell and Pryor Streets, told me they were going to take me to the undertaker's first, that they wanted me to see the body and see if I could identify the little girl. I went with them to the undertaking establishment, and one of the two men asked the attendant to show us the way into where the body was, and the attendant went down a long, dark passageway with Mr. Rogers following, then I came, and Black brought up the rear; we walked down this long passageway until we got to a place that was apparently the door to a small room,—very dark in there, the attendant went in and suddenly switched on the electric light, and I saw the body of the little girl. Mr. Rogers walked in the room and stood to my right, inside of the room, I stood right in the door, leaning up against the right facing of the door, and Mr. Black was to the left, leaning on the left facing, but a little to my rear, and the attendant, whose name I have since learned was Mr. Gheesling, was on the opposite side of the little cooling table to where I stood—in other words, the table was between him and me; he removed the sheet which was covering the body, and took the head in his hands, turned it over, put his finger exactly where the wound in the left side of the head was located,—put his finger right on it; I noticed the hands and arms of the little girl were very dirty,—blue and ground with dirt and cinders, the nostrils and mouth —the mouth being open—nostrils and mouth just full of saw-dust and swollen, and there was a deep scratch over the left eye on the forehead; abou the neck there was twine,—a piece of cord similar to that which is used at the pencil factory and also a piece of white rag. After looking at the

body, I identified that little girl as the one that had been up shortly after noon the day previous and got her money from me. We then left the undertaking establishment, got in the automobile and rode over to the pencil factory. Just as we arrived opposite the pencil factory, I saw Mr. Darley going into the front door of the pencil factory with another man, whose name I didn't know; we went up to the second floor, the office floor, I went into the inner office, hung up my hat, and in the inner office I saw the night watchman, Newt Lee, in the custody of an officer, who I think was detective Starnes, -the man who had phoned me. I then unlocked the safe and took out the pay-roll book and found that it was true that a little girl by the name of Mary Phagan did work in the metal plant, and that she was due to draw $1.20, the pay-roll book showed that, and as the detective had told me that someone had identified the body of that little girl as that of Mary Phagan, there could be no question but what it was one and the same girl. The detectives told me then they wanted to take me down in the basement and show me exactly where the girl's body was found, and the other paraphernalia that they found strewed about; and I went to the elevator box,—the switch box, so that I could turn on the current, and found it open. In reference to that switch box being open or shut—it was open on that occasion, however,—I had given instructions to the factory to keep it open, and those instructions were given because a member of the fire department had gone through all that part of the city, and the National Pencil Company, among others, and told us that no switch box, no box in which an electric switch was situated, could be locked up, but had to be open, so it could be easily accessible in case of fire, so they wouldn't run any risk of electrocuting anybody, or if they wanted to move quickly, they could throw it on and start the elevator,—you couldn't lock it up, the firemen wouldn't know where the key was. However, I turned on the switch, started the motor, which runs the elevator, going, then Mr. Darley and a half dozen more of us and the detectives got on the elevator; I got on the elevator and I started to pull the rope to start the elevator to going, and it seemed to be caught, and I couldn't move it, I couldn't move it with a straight pull, and couldn't get it loose, so I jumped out, we all got off, and I asked Mr. Darley to try his hand,—he's a great deal larger man and a great deal stronger man than I was—so he was successful in getting it loose—it seemed like the chain which runs down in the basement had slipped a cog and gotten out of gear and needed somebody to force it back; however, Mr. Darley was successful in getting it loose, and it started up, and I got on and the detectives got on and I caught hold of the rope and it worked alright.

In the basement, the officers showed us just about where the body was found, just beyond the partition of the Clark Woodenware Company, and in behind the door to the dust bin, they showed us where they found the hat and slipper on the trash pile, and they showed us where the back door, where the door to the rear was opened about 18 inches. After looking about the base-

ment, we all went back upstairs and Mr. Darley and myself got some cords and some nails and a hammer and went down the basement again to lock up the back door, so that we could seal the factory from the back and nobody would enter. After returning upstairs, Mr. Darley and myself accompanied Chief Lanford on a tour of inspection through the three upper floors of the factory, to the second floor, to the third floor and to the fourth floor, we looked into each bin, and each partition, and each dressing room and each work room, and even passed through the metal room and looked into that very dressing room that has figured so prominently in this trial, and neither Mr. Darley nor myself noticed anything peculiar on that floor, nor did Sergeant Lanford, Chief of the Atlanta detectives, notice anything peculiar. We then returned to the front, and took out of the clock the slip on which Newt Lee had punched the evening previous, and that clock slip, of course, was dated April 28th (Defendant's Exhibit 1).

I removed the clock slip from the clock, and in the center of the sheet, between the top and bottom, I remember the No. 133 and the number 134, I wrote on it "Taken out 8:26 A. M." (Defendant's Exhibit 1), and two lines under it, with a casual look at that slip, you can't see it.

I can see it. When looking casually at that slip (Defendant's Exhibit 1), you see nothing, and by the way, this sheet has been identified, it is the one to which reference has been made so many times, and if you will look at it, you will see the date, April 28th, which we put on there on the evening of Saturday, April 26th, but if you will look opposite those numbers 133 and 134 (Defendant's Exhibit 1), and look very carefully, you can see where there has been erased from it what I put on there that morning in pencil to identify it, the words "taken out 8-26," and two lines, which it seems has been erased, but they couldn't erase it carefully enough, they even erased some of the printed line which runs across that sheet. This is the sheet that I took out on Sunday morning, and looked at the clock to notice what time it was, and I laid it up against the dial of the clock, the glass face of the clock, and wrote down there the time which the clock then registered. I told them the sheet was just like you see it there, and I brought it to the office and Chief Lanford put it in his pocket; I then went into the office and got another time slip and dated it April 28th, similar to this one which was taken out, and which one it would replace, and I put it back into the time clock to be used by the night watchman that night and by the help when they came to work on Monday morning. After taking this slip out, Mr. Darley and myself casually looked over the slip to see if there were any errors, and we noticed over there that no successive numbers had been skipped, that is, the numbers on that slip are arranged successively, one, two, and three, and the time alongside of each one, and there was no single line skipped, but we didn't notice the actual time shown by the punch, we only noticed that the successive punches were made at the time which the punches themselves showed. After putting a new

slip in the clock, we all went out of the factory and went downstairs and locked the door, and I was going to go down to the office, to police headquarters, because the officers said they wanted to show me some notes which they said were found near the body and the padlock and staple which they showed me had been withdrawn, and which they said had been taken down to the station the first time they had Newt Lee down there.

Now, gentlemen, I have heard a great deal, and so have you, in this trial, about nervousness, about how nervous I was that morning. Gentlemen, I was nervous, I was very nervous, I was completely unstrung, I will admit it; imagine, awakened out of my sound sleep, and a morning run down in the cool of the morning in an automobile driven at top speed, without any food or breakfast, rushing into a dark passageway, coming into a darkened room, and then suddenly an electric light flashed on, and to see the sight that was presented by that poor little child; why, it was a sight that was enough to drive a man to distraction; that was a sight that would have made a stone melt; and then it is suspicious, because a man who is ordinary flesh and blood should show signs of nervousness. Just imagine that little girl, in the first blush of young womanhood, had had her life so cruelly snuffed out, might a man not be nervous who looked at such a sight? Of course I was nervous; any man would be nervous if he was a man. We went with the officers in the automobile, Mr. Rogers was at the driving wheel, and Mr. Darley sat next to him, I sat on Mr. Darley's lap, and in the back was Newt Lee and two officers. We rode to headquarters very quickly and on arrival there Mr. Darley and I went up to Chief Lanford's office where I sat and talked and answered every one of their questions freely and frankly, and discussed the matter in general with them, trying to aid and to help them in any way that I could. It seemed that, that morning the notes were not readily accessible, or for some other reason I didn't get to see them, so I told them on leaving there that I would come back that afternoon, which I ultimately did; after staying there a few minutes, Mr. Darley and myself left, and inasmuch as Mr. Darley hadn't seen the body of the little girl, we went over to Bloomfield's on Pryor Street and Mitchell, and when we went into the establishment, they told us somebody was busy with the body at that time and we couldn't see it, and we started to leave, when we met a certain party with whom we made arrangements to watch the building, because Newt Lee was in custody at that time. Mr. Darley and I then went over to Montag Brothers to see if any of the Montags had come down town that morning, we arrived at their place, and found the same was locked, and that nobody was down there. We walked from Montag's place on Nelson Street down to Mitchell and Forsyth Streets, where I bade Mr. Darley good-bye, and I walked down Mitchell Street to Pryor, where I caught a Georgia Avenue car and rode to the house of Mr. Sig Montag, our General Manager, corner of Glenn and Pryor Streets, and called on Mr. Montag and discussed with him at length and in detail what I had seen that morning and what the detectives had to say. After my conver-

sation with him, I returned to my home at about a quarter to eleven, my home was 68 E. Georgia Avenue; I washed up and had my breakfast in company with my wife, in the dining room, and while I was eating breakfast, I told my wife of the experience I had had that morning. After I finished my breakfast, I left the house and went around to the home of Mr. Wolfsheimer, and at Mrs. Wolfsheimer's house we found quite a company of people, and the conversation turned largely on what I had seen that morning; also, among those who were present, were Mrs. L. G. Cohen, Mrs. M. G. Michael, Mrs. Carl Wolfsheimer, Julian Michael, Philip Michael, Miss Helen Michael, Miss Virginia Silverman, Miss May Lou Liebman, Julian Loeb and Herman Loeb. After staying there about an hour with my wife, I went in her company to visit the home of my brother-in-law, A. E. Marcus, whose home is situated on Washington Street opposite the Orphans' Home; on our arrival there, the nurse Lucy told us that no one was at home, and we could find them probably at the home of Mrs. Ursenbach; we then went over to the Ursenbach house, which is situated on the corner of Washington and Pulliam Streets, and visited at that place, and saw Mr. and Mrs. A. E. Marcus, Mr. and Mrs. Chas. Ursenbach, Harold Marcus, Mr. and Mrs. Ben Wiseberg. Of course, the conversation was about the little girl that had been killed in the Pencil Factory basement that morning, of which they had heard, and we discussed it generally, although it was at that time as much a puzzle to me as it was apparently to everbody else. After staying here until about one o'clock or a little after, I returned with my wife to my home at 68 E. Georgia Avenue, where we took our lunch together with my parents-in-law, with Minola McKnight serving. After dinner, read a little while, and finally caught the ten minutes of three Georgia Avenue car going down town. I got off at the corner of Pryor and Mitchell Streets, and went into the undertaker Bloomfield's, where I saw a large crowd of people nearby on the outside; on entering I found quite a number of people who were working at the Pencil Factory, among whom were Mr. Schiff, Herbert Schiff, N. V. Darley, Wade Campbell, Alonzo Mann, Mr. Stelker, and Mr. Zyganke. I chatted with them a few minutes, and I noticed that the people who were going in to see the body were standing in line and moving in, and that others from the factory were going in and I thought I would go in too and pay my respects, and I went and stood in line, and went into the room again and staid a few minutes in the mortuary chamber; the little girl had been cleaned up, her hair had all been cleaned and smoothed out, and there was a nice white sheet over the rest of her body. I returned to the front of the undertaking establishment, and stood chatting with Herbert Schiff and Mr. Darley until the party with whom we had made arrangements came up, and we gave them the keys with instructions as to watching the plant that night. Then Mr. Darley and Mr. Schiff and myself went down to police headquarters and went up into Chief Lanford's office, and the three of us stood talking there, answering all sorts of questions that not only chief Lanford, but the other detectives would shoot at us, and finally Mr. Darley said he would like to talk to Newt Lee; then he went

into another room, and I presume they brought Newt Lee up from the cell, so he could talk to him. After Newt Lee was gone, the detectives showed us the two notes and the pad back with still a few unused leaves to it, and the pencil that they claimed they had found down in the basement near the body. Of course, Mr. Schiff and myself looked at those notes and tried to decipher them, but they were written exceedingly dim, and were very rambling and incoherent, and neither of us could recognize the handwriting, nor get any sense out of them at all. One of these notes (State's Exhibit Y) was written on a sheet of pencil pad paper, the same kind as that of this sheet which still remained on the pad back; the other (State's Exhibit Z) was written on a sheet of yellow paper, apparently a yellow sheet from the regulation order pad or order book of the National Pencil Company; this sheet was a yellow sheet with black ruling on it, and certain black printing at the top. These are the two notes (State's Exhibit Y and Z) (indicating papers). At the top of these notes where it showed the series and date, and you can see it has either been worn out or rubbed out (Defendant's Exhibit Z), but the date was originally on there, and down below here is the serial number; now, both of those notes were written as though they had been written through a piece of carbon paper and the date said Jan. 8th, 1911; the order number is so faint or erased here that I can't even see what that is, but there is no trace of a date on this one at all, but it was there distinctly visible when Mr. Schiff and myself looked at it. We continued answering any questions that the detectives wished to put to us looking to a possible solution of the mystery, when Mr. Darley came in and said if they didn't want him any further, he would go off, that he had an appointment. A few minutes thereafter, Mr. Schiff and myself left police headquarters, and went down Decatur Street to Peachtree Street, and down Peachtree Street over the viaduct to Jacobs' Alabama and Whitehall St. store, and went in, and each of us had a drink, and I bought a cigar for each of us at the cigar counter. Mr. Schiff had an appointment to meet some friends of his at the Union Depot that afternoon, and it was a little too early, so we took a walk around by the Pencil Factory, walking up Alabama to Forsyth Street and down Forsyth Street on the side opposite from the factory, to the corner of Hunter and Forsyth, where we noticed the morbid crowd that had collected out in front of the factory; we stood there about a minute or two and then continued walking, and then went up East Hunter Street back to Whitehall Street, and back Whitehall to the corner of Whitehall and Alabama, where Mr. Schiff waited until I caught an Alabama Street or Georgia Avenue car and returned to my home. I returned to my home about a quarter to four, and found there was no one in, as my wife had told me that if she wasn't at home, she would probably be at the residence of Mr. Ersenberg, I proceeded over there, coming up Washington Street in the direction of the Orphans' Home, and on Washington Street, between Georgia Avenue and the next street down, which I believe is Bass street, I met Arthur Haas and Ed Montag and Marcus Loeb, who stopped me and asked about things they had heard about the little girl being dead in the Pencil Factory,

and I stopped and discussed it with them, and I was about to leave them When Henry Bauer came along in his automobile and stopped where I was and he asked me what I knew about it, and I had to stop and talk with him; and I finally got loose from him and went over to the home of Mr. Ursenbach on the corner of Pulliam and Washington Terrace, and when I arrived there, I found Mr. and Mrs. A. D. Marcus, Mr. and Mrs. Charlie Ursenbach, and my wife, and a little later Mr. and Mrs. Sig Selig came in. Here again the subject of conversation was what I had seen that morning and what the detectives had told me, and what I had told them and how the little girl looked, and all about it, as far as I knew. I staid there until about 5 o'clock, when Mr. Ike Haas, the Vice-President of the Pencil Factory, telephoned me to come over to his house, and I thereupon went over there, and on arriving at Mr. Haas' home, which is situated on Washington Street right across the way from the Orphans' Home, I talked to him about what I had seen that morning, and what I could deduce from the facts that were known and what the detectives had told me. I staid there until about 6 o'clock. On arrival at Mr. Haas', I saw there his wife, Mrs. Haas, his son Edgar Haas, and a cousin of my wife's, Montefiore Selig. My wife had left word with Mrs. Haas that I should call for her at the residence of Mr. Marcus, which is next door, or just a few doors away, and I went by and called for my wife at six o'clock and a few minutes before seven my wife and I left the residence of Mr. Marcus and started down Washington Street towards Georgia Avenue on our way home. On our way home, we met our brother-in-law, Mr. and Mrs. Chas. Ursenbach, going to the house from which we had just left. We reached home about seven or a little after for supper. After supper, I started to read the paper; between 8 and 8:30, I phoned up to my brother-in-law, Alex Marcus, and asked him if he would come down, but he said he thought he would not that evening, on account of the rain. I continued reading there in the hall that night or evening. There was company at the house of my father and mother-in-law, among the company being the following people, to the best of my recollection, Mr. and Mrs. Paul Lippman, Mr. and Mrs. Ike Strauss and Mr. and Mrs. Carl Wolfsheimer. About ten o'clock, all the company left, and I went upstairs with my wife and retired about ten o'clock.

The next morning, I arose about seven o'clock, and washed and shaved and dressed, and while I was so occupied, the door bell rang, and my wife again answered the door, and there were two detectives down there, one was John Black, and the other, I believe, Mr. Haslett, Haslett of the city detectives; I finished dressing and went downstairs, and they told me they wanted me to step down to headquarters with them, and I told them I would, but I stopped and got my breakfast, finished dressing and got my breakfast before I went with them. We walked from my home on Georgia Avenue down to Washington Street down to police headquarters, walking the whole way. On the way down, I asked detective Haslett what the trouble down at the station house was, and he said: "Well, Newt Lee has been saying something, and

Chief Lanford wanted to ask you a few questions about it;'' and I said: ''What did Newt Lee say:'' ''Well, Chief Lanford will tell you when you get down there.'' Well, I didn't say anything more to him, went right along with him, and when I got down to police headquarters, I sat in one of the outer offices that the detectives use, it wasn't the office of Chief Lanford, he hadn't come down yet, that was about between 8 and 8:30 when I got down there. Well, I waited around the office possibly an hour, chatting and talking to the officers that came in and spoke to me, but I still didn't see anything of Chief Lanford; and bye and bye, probably after an hour, half past nine perhaps, Sig Montag and Herbert Haas, a couple of my friends, came up and spoke to me; I was conversing with them, and possibly at 10 o'clock I saw Mr. Luther Rosser come up, and he said: ''Hello Boys, what's the trouble?'' And Mr. Haas went up to him and spoke to him, and they were talking together and a few minutes later Chief Lanford, who had in the mean time arrived and who seemed to be very busy running in and out answering telephone calls, came in and says: ''Come here,'' and beckoned to me; and I went with him and went into his room, in his office, and while I was in there, to the best of my recollection, anyhow it is my impression now, that this very time slip (Defendant's Exhibit 1), on which at that time that ''taken out at 8:26,'' with the two lines under it, had not been erased, was shown to me, and in looking over it and studying it carefully, I found where the interval of an hour had occurred three times during the time that Newt Lee had been punching on that Saturday night, April 26th. When I had first looked at it, I only noticed that every line had a punch mark on it, but I didn't notice what time the punch marks themselves were on; this time I studied the slip carefully, it was the same slip I had taken out of the clock, Chief Lanford or one of the officers handed it to me at police headquarters, which I absolutely identified with the writing which was on it, which you can readily see if you look now, even though it has been erased. There seemed to be some altercation about Mr. Rosser coming in that room, and I heard Mr. Rosser say: ''I am going into that room, that man is my client;'' that was the first intimation I had that Mr. Rosser was going to look after my interests in this matter. Chief Beavers stated that he wanted me to give him a statement, and he said: ''Mr. Frank, will you give us a statement?'' And I said: ''Certainly, I will give them a statement, I considered it only right that anybody that was at that factory that day should give the police a statement, telling who he had seen, where he had gone and what he had done; and I gave them a statement freely and unreservedly, while I had no idea that I had to make a statement at that time, I did give it to the very best of my ability, freely, and answered every question that was put to me. Mr. February was sitting on the opposite side of the table from where I was sitting, Chief Lanford was sitting at a desk, and Mr. Rosser was sitting quite a distance away, probably 25 feet, sitting in the front window with his back to us. After I had given the statement, several of the officers came into the room, among them being Chief Beavers, and Chief Beavers and Chief Lanford and Mr. Rosser were ap-

parently having a sort of conversation, and I overheard Mr. Rosser say: "Why, it is preposterous, a man who would have done such a deed must be full of scratches and marks and his clothing must be bloody." I imagine Mr. Rosser must have had an inkling that they were suspicious of me, and as soon as I heard that, I turned and jumped up and showed them my underclothing and my top shirt and my body, I bared it to them all that came within the range of their vision, I had everything open to them, and all they had to do was to look and see it. After that, Mr. Rosser insisted that two of the detectives, Mr. Black and another detective, accompany Mr. Haas, Mr. Herbert Haas, and myself to my home and look over my soiled clothing for the past week, which I anticipated had not been given to the wash woman. They complied with this request; Mr. Black and another detective and Mr. Haas and myself went over to the corner of Hunter and Washington Streets, and caught the Washington Street car and rode to Georgia Avenue and went to my home, and on this car my mother-in-law was sitting, returning to her home from town. On reaching 68 East Georgia Avenue, I found there my wife's grandmother, Mrs. Cohen, and my father-in-law, Mr. Selig. The detectives immediately went upstairs to my room with Mr. Haas and myself, and I took the laundry bag in which my soiled laundry is always kept and emptied it out on the bed, and they examined each and every article of clothing that I had discarded that past week, and I again opened the clothing which I was then wearing, and which was the brown suit which I have here, this brown suit (Defendant's Exhibit 49) is the same suit I wore that Saturday, April 26th, and Monday April 28th, and I have worn that suit continuously since then until the weather became so hot, and it has neither been pressed nor cleaned since then, and I show it to you for your examination. The detectives were evidently perfectly well satisfied with what they had seen there, and of course they left without any further remarks with Mr. Haas. I went downstairs and conversed with my folks down there until dinner time, which was served to my father-in-law and my mother-in-law and my wife and myself by Minola McKnight. About that time, Mr. and Mrs. Wolfsheimer came in and conversed with us, Mr. Wolfsheimer telling me that he would take me down town that afternoon in his automobile. After dinner, I telephoned down to the office and telephoned to Mr. Schiff, and told him to get Mr. Montag's permission for the Pencil Company to put on a detective, preferably a Pinkerton detective, to work with and assist the city detectives in ferreting out the crime, as an evidence of the interest in this matter which the National Pencil Company was taking, I thought it was no more than we ought to do, and I also told Mr. Schiff I would be downtown between half past two and three. After conversing with my folks, I went around the corner to Mr. Wolfsheimer's house and got in his automobile, and he took me downtown to his place of business, which is situated on Whitehall Street near Mitchell, and I got out of the automobile there and walked over to the Forsyth Street plant of the Pencil Factory, and on going into the office, I saw the following men there: Mr. Herbert Schiff, Mr. Wade Campbell, Mr. Darley,—Mr. Hol-

loway was out in his place in the hall, and Mr. Stelker and Mr. Quinn and Mr. Ziganke, these foreman were sitting around there because we had shut down there, as they told me, due to the fact that the plant was wholly demoralized, the girls were running into hysterics, they couldn't stick at their work, they were crying and going on over what had happened there. I spoke to the boys who were there in the office about the happenings of that morning, of course, at more or less length. Then Mr. Quinn said he would like to take me back to the metal department on the office floor where the newspapers had said that Mr. Barrett of the metal department had claimed he had found blood spots, and where he had found some hair. Mr. Quinn took me to the little lathe back in the metal department, and explained to me that Mr. Barrett had told him just the same as he said here, that those strands of hair were so few in number that he didn't see them until he turned the handle and they wound around his fingers, and moreover that the position of the handle of the tool which that handle actuates on that tool, that small lathe, was in the same relative position to the work in the lathe as when they left it on Friday evening previous to that Monday. They then took me over to the place in front of the dressing room where it was claimed the blood spots were found. Now, I examined those spots, I didn't examine them standing up, I didn't depend on the light from the windows, but I stooped right down to those spots, and I took a strong electric flash lamp that we had around there and looked at them and examined them carefully, and I made a certain conclusion after that examination. Now, gentlemen, if there is any one thing in and about a factory, after my seven years of practical experienc in factories, that I do know, it is the care and condition of factory floors. Now, take that metal plant, for instance, that plant, as you know, is a place where we reform and shape and spin sheet brass, and of course, of necessity, we use a great deal of lubricant there; now, the lubricant that is used on this eyelet machine, these large machines that change the sheet metal from a ribbon into a shape, we use that form of lubricant which is known as haskoline compound; now, the main ingerdients of that compound are, for practical purposes, soap and oil, and in use, it is diluted to a great extent with water so it can flow easily onto the tools or onto the metal, so that the tools that they use it on won't get brittle or smeared up, and that haskoline compound is carried to these little machines in the metal room, right almost up to that dressing room, and that haskoline remains on them and sticks to them, and you are apt to find that haskoline compound on the floor there anywhere around in that metal room near any of those machines, and when it is spilled on the floor, it is not scoured up, but it is just swept up with a broom. Moreover, a point that has not been brought out, so far as I know, right opposite that dressing room is kept the scrap brass, the scrap barrels in which the scrap metal from the eyelet machines is put, and that is full of that haskoline compound, that metal being put into the barrel of course, with the fluid on it, it flows to the bottom and is apt to get out of the bottom of that barrel onto the floor. But, getting back to the floor of the metal room, there is a constant spilling of lubricants, and, as I say, it is com-

posed largely of soap and oil, and that floor, by actual experiment, is covered to a thickness varying from a quarter to a half inch, that is, you can scrape away that much before you get down to the original color of the wood; moreover, on top of that grease soaked floor, there is dirt more or less, and then somebody comes along with a water sprinkler and sprinkles it to sweep it up, and they go over the top of that, it don't sink into the floor, and the result is there is coat after coat of grease and dirt on that floor. Now, with reference to those spots that are claimed to be blood that Mr. Barrett found, I don't claim they are not blood, they may have been, they are right close to the ladies dressing room, and we have had accidents there, and by the way, in reference to those accidents, the accidents of which we have had records, are not the only accidents that have happened there; for instance, a person cuts a finger; that is an accident, we give first aid to the injured in the office, and we don't have any report on that, the only reports we have are of those accidents that incapacitates the health, where they demand the money for the time that they have lost due to the accident, and we will have our Employers' Liability Insurance Company to pay the employees, but where people just cut their fingers and they go back to work, we don't make any record of that, and we have people cutting their fingers there very often, and when they cut their fingers, their line of travel is right by that place where Mr. Barrett found those spots, right to the office. Now, we use paint and varnish around there, a great deal of it, and while I don't say that this is not blood, it may be, but it could also have been paint, I have seen the girls drop bottles of paint or varnish and have them break there on the floor, I have seen that happen right close to that spot, but the main point about it is this, gentlemen: when I got down and looked at it, you could have scratched away from the top of those dark stains an accumulation of dirt that was not the accumulation of a day or two days or three days or three weeks, but it was at least three months, from off the top of those spots, without touching the spot itself. Moreover, that white stuff was unquestionably, in my opinion, haskoline compound, and it was dry and it had to be put on, because it showed all evidences of having been swept, so it had to be put on the wood in a liquid state; if that had been fresh red paint, or if that had been fresh red blood, and that haskoline compound, that soap in it, which is a great solvent, should have been put on there in a liquid state, it would not have showed up white, as it showed up then, but it would have showed up either pink or red, and where the spot of blood was, or whatever it was, that stuff was white, and not pink or red.

I returned after making this examination from which I noticed two or three or four chips had been knocked up, the boys told me, by the police that morning; I returned to my office and gathered up what papers I had to take over to Montag Brothers, and I took over the financial report which I had made out the Saturday afternoon previous, and I talked it over with Mr. Sig Montag. I had a good long conversation with Mr. Montag with reference to the occurrences that morning and we decided that since the papers had

stated that I was being detained at headquarters, it would be best to let my uncle, who was ill, and who is an elderly man, being over 70 years of age, and who was on the point of taking a trip to Europe, and I didn't want him to be unnecessarily alarmed by seeing in the papers that I was detained, and I wrote a telegram to Mr. Adolph Montag informing him that I was no longer in custody, that I was all right, and that he could communicate that to my uncle. That was so that my uncle should not get hold of an Atlanta paper and see that I was in custody and be unnecessarily alarmed.

I returned from Montag Brothers to the Pencil Factory, being accompanied by one of the traveling men, Mr. Hein, Mr. Sol Hein, and on my arrival at the factory I went up into the office and distributed the various papers all over the factory to be acted on the next day. In a few minutes Mr. Harry Scott of the Pinkerton detectives came in and I took him aside into my office, my private office, and spoke to him in the presence of Mr. N. V. Darley and Mr. Herbert Schiff. I told him that I expected that he had seen what had happened at the Pencil Factory by reading the newspapers and knew all the details. He said he didn't read the newspapers and didn't know the details, so I sat down and gave him all the details that I could, and in addition I told him something which Mr. Darley had that afternoon communicated to me, viz.: that Mrs. White had told him that on going into the factory at about 12 o'clock noon on Saturday April 26th, she had seen some negro down by the elevator shaft. Mr. Darley had told me this and I just told this to Mr. Scott. After I told Mr. Scott all that I could, I took him around the building, took him first back to the metal room and showed him the place where the hair had been found, looked at the machinery and at the lathe, looked at the table on which the lathe stands, and the lathe bed and the floor underneath the lathe, and there wasn't a spot, much less a blood spot underneath. I showed him the other spot in front of the dressing room, and I took him to the fourth floor and showed him where I had seen White and Denham a little before one the first time and about three the second time. Then I took him down into the basement and made a thorough search of the basement, and that included an examination of the elevator well which was at the bottom of the elevator shaft, and I noticed Mr. Scott was foraging around down there and he picked up two or three or may be four articles and put them in his pocket, and one of them I specially noticed was a piece of cord exactly like that which had been found around the little girl's neck. We then back and I showed him where the officer said the slipper had been found, the hat had been found and the little girl's body was located. I showed him, in fact, everything that the officers had showed us. Then I opened the back door and we made a thorough search of the alleyway and went up and down the alleyway and then went down that alleyway to Hunter Street and down Hunter to Forsyth and up Forsyth in front of the Pencil Factory. In front of the Pencil Factory I had quite a little talk with Mr. Scott as to the rate of the Pinkerton Detective Agency. He told me what they were and I had Mr. Schiff to telephone to

Mr. Montag to find out if those rates were satisfactory. He phoned back the answer that he would engage them for a few days at any rate. Mr. Scott then said: "Well, I don't need anything more," and he says "The Pinkertons in this case, according to their usual custom in ferreting out the perpetrator of this crime will work hand in hand with the city officers." I said: "All right, that suits me." And he went on his way. About that time my father-in-law joined the group over in front of the factory and after talking for some time my father-in-law and I left and we arrived home about 6:30 I should judge, and found there my mother-in-law and my wife and Minola McKnight, and we had supper. After supper my two brothers-in-law and their wives came over to visit with us and they stayed until about 10 o'clock, after which my wife and I retired. On Tuesday morning I arose sometime between seven and seven-thirty, leisurely dressed and took my breakfast and caught the 8:10 car coming towards town, the Georgia Avenue car, and when I went to get on that car I met a young man by the name of Dickler and I remember paying the fare for both of us. When I arrived at the Pencil Factory about 8:30, I immediately entered upon my routine work sending the various orders to the various places in the factory where they were due to go, and about 9:30 I went on my usual trip over to Montag Brothers to see the General Manager. After staying over there a short while I returned in company with another one of their traveling men, Mr. Jordan. At the corner of Forsyth and Hunter Street I met up with a cousin of my wife's, a Mr. Selig, and we had a drink at Cruiskshank's soda fount at the corner of Hunter and Forsyth. Then I went up into the factory and separated the papers I had brought back with me from Montag Brothers, putting them in the proper places, and sending the proper papers to the different places. I was working along in the regular routine of my work, in the factory and about the office, and a little later detectives Scott and Black came up to the factory and said: "Mr. Frank, we want you to go down to headquarters with us," and I went with them. We went down to headquarters and I have been incarcerated ever since. We went down to headquarters in an automobile and they took me up to Chief Lanford's office. I sat up there and answered any questions that he desired, and I had been sitting there some time when detective Scott and detective Black came back with a bundle under their arm. They showed me a little piece of material of some shirt, and asked me if I had a shirt of that material. I looked at it and told them I didn't think I ever had a shirt of that description. In the meantime they brought in Newt Lee, the night watchman, brought him up from a cell and showed him the same sample. He looked at it and immediately recognized it; he said he had a shirt like that, but he didn't remember having worn it for two years, if I remember correctly, that is what he said. Detectives Scott and Black then opened the package they had and disclosed the full shirt (State's Exhibit F) of that material that had all the appearance of being freshly stained with blood, and had a very distinct odor. Newt Lee was taken back to the cell. After a time Chief Lanford came over to me and began an examination of my face and of my head and my hands

and my arms. I suppose he was trying to hunt to see if he could find any scratches. I stayed in there until about 12 o'clock when Mr. Rosser came in and spoke to the detectives, or to Chief Beavers. After talking with Chief Beavers he came over to me and said that Chief Beavers thought it better that I should stay down there. He says: "He thinks it better that you be detained at headquarters, but if you desire, you don't need to be locked up in a cell, you can engage a supernumerary policeman who will guard you and give you the freedom of the building." I immediately acquiesced, supposing that I couldn't do anything else, and Mr. Rosser left. Now, after this time, it was almost about this time they took me from upstairs down to the District Sergeant's desk and detective Starnes—John N. Starnes, I think his name is, came in and dictated from the original notes that were found near the body, dictated to me to get a sample of my handwriting. Have you got those photographs there? (Photographs handed to the defendant). I wrote this note (State's Exhibit K) at the dictation of Mr. Starnes, which was given to me word by word, and of course I wrote it slowly. When a word was spelled differently they usually stopped—take this word "buy" for instance, the detective told me how that was spelled so they could see my exact letters, and compare with the original note. Now I had no hesitation in giving him a specimen of my handwriting. Now, this photograph (State's Exhibit K), is a reproduction of the note. You see, J. N. Starnes in the corner here, that is detective Starnes, and then is dated here, I put that there myself so I would be able to recognize it again, in case they tried any erasures or anything like that. It is a photographic reproduction of something that was written in pencil, as near as one can judge, a photographic reproduction of the note that I wrote. Detective Starnes then took me down to the desk sergeant where they searched me and entered my name on the book under a charge of suspicion. Then they took me back into a small room and I sat there for awhile while my father-in-law was arranging for a supernumerary police to guard me for the night. They took me then to a room on the top of the building and I sat in the room there and either read magazines or newspapers and talked to my friends who came to see me until—I was about to retire at midnight. I had the cover of my cot turned back and I was going to bed when detective Scott and detective Black, at midnight, Tuesday, April 29th, came in and said: "Mr. Frank, we would like to talk to you a little bit. Come in and talk to us." I says: "Sure, I will be only too glad to." I went with them to a little room on the top floor of the headquarters. In that room was detective Scott and detective Black and myself. They stressed the possibility of couples having been let into the factory at night by the night watchman, Newt Lee. I told them that I didn't know anything about it, that if I had, I certainly would have put a stop to it long ago. They said: "Mr. Frank, you have never talked alone with Newt Lee. You are his boss and he respects you. See what you can do with him. We can't get anything more out of him, see if you can." I says: "All right, I understand what you mean; I will do my best," because I was only too willing to help.

Black says: "Now put it strong to him, put it strong to him, and tell him to cough up and tell all he knows. Tell him that you are here and that he is here and that he better open up and tell all he knows about happenings at the Pencil Factory that Saturday night, or you will both go to hell." Those were the detective's exact words. I told Mr. Black I caught his meaning, and in a few minutes afterwards Detective Starnes brought up Newt Lee from the cell room. They put Newt Lee into a room and handcuffed him to a chair. I spoke to him at some length in there, but I couldn't get anything additional out of him. He said he knew nothing about couples coming in there at night, and remembering the instructions Mr. Black had given me I said: "Now, Newt, you are here and I am here, and you had better open up and tell all you know, and tell the truth and tell the full truth, because you will get us both into lots of trouble if you don't tell all you know," and he answered me like an old negro: "Before God, Mr. Frank, I am telling you the truth and I have told you all I know." And the conversation ended right there. Within a minute or two afterwards the detectives came back into the room, that is, detective Scott and detective Black, and then began questioning Newt Lee, and then it was that I had my first initiation into the third degree of the Atlanta police department. The way that fellow Black cursed at that poor old negro, Newt Lee, was something awful. He shrieked at him, he hollered at him, he cursed him, and did everything but beat him. Then they took Newt Lee down to a cell and I went to my cot in the outer room.

Now before closing my statement, I wish to touch upon a couple of insinuations and accusations other than the one on the bill of indictment, that have been leveled against me so far during the trial. The first is this, the fact that I would not talk to the detectives; that I would not see Jim Conley. Well, let's look into the facts a few minutes and see whether there was any reason for that, or if there be any truth in that statement.

On Sunday morning, I was taken down to the undertaker's establishment, to the factory, and I went to headquarters; I went to headquarters the second time, going there willingly without anybody coming for me. On each occasion I answered them frankly and unreservedly, giving them the benefit of the best of my knowledge, answering all and any of their questions, and discussing the matter generally with them. On Monday they came for me again. I went down and answered any and all of their questions and gave them a statement which they took down in writing, because I thought it was right and I was only too glad to do it. I answered them and told them all that I know, answering all questions. Tuesday I was down at police station again, and answered every question and discussed the matter freely and openly with them, not only with the police, but with the reporters who were around there; talked to anybody who wanted to talk with me about it, and I have even talked with them at midnight when I was just about to go to bed. Mid-

night was the time they chose to talk to me, but even at such an outlandish hour I was still willing to help them, and at their instigation I spoke to Newt Lee alone, but what was the result? They commenced and they grilled that poor negro and put words into his mouth that I never said, and twisted not alone the English, but distorted my meaning. I just decided then and there that if that was the line of conduct they were going to pursue I would wash my hands of them. I didn't want to have anything to do with them. On the afternoon of May 1st, I was taken to the Fulton County Tower. On May 3rd detectives Black and Scott came up to my cell in the tower and wanted to speak to me alone without any of my friends around. I said all right, I wanted to hear what they had to say that time. Then Black tore off something like this: "Mr. Frank, we are suspicious of that man Darley. We are watching him; we have been shadowing him. Now open up and tell us what you know about him." I said: "Gentlemen, you have come to the wrong man, because Mr. Darley is the soul of honor and is as true as steel. He would not do a crime like that, he couldn't do it." And Black chirped up: "Come on, Scott, nothing doing," and off they go. That showed me how much reliance could be placed in either the city detectives or our own Pinkerton detectives, and I treated such conduct with silence and it was for this reason, gentlemen, that I didn't see Conley, surrounded with a bevy of city detectives and Mr. Scott, because I knew that there would not be an action so trifling, that there was not an action so natural but that they would distort and twist it to be used against me, and that there was not a word that I could utter that they would not deform and twist and distort to be used against me, but I told them through my friend Mr. Klein, that if they got the permission of Mr. Rosser to come, I would speak to them, would speak to Conley and face him or anything they wanted—if they got that permission or brought Mr. Rosser. Mr. Rosser was on that day up at Tallulah Falls trying a case. Now, that is the reason, gentlemen, that I have kept my silence, not because I didn't want to, but because I didn't want to have things twisted.

Then that other implication, the one of knowing that Conley could write, and I didn't tell the authorities.

Let's look into that. On May 1st I was taken to the tower. On the same date, as I understand it, the negro Conley was arrested. I didn't know anybody had any suspicions about him. His name was not in the papers. He was an unknown quantity. The police were not looking out for him; they were looking out for me. They didn't want him, and I had no inkling that he ever said he couldn't write. I was sitting in that cell in the Fulton County jail—it was along about April 12th, April 12th or 14th—that Mr. Leo Gottheimer, a salesman for the National Pencil Company, came running over, and says "Leo, the Pinkerton detectives have suspicions of Conley. He keeps saying he can't write; these fellows over at the factory know well enough that he can write, can't he?" I said: "Sure he can write." "We can

prove it. The nigger says he can't write and we feel that he can write." I said: "I know he can write. I have received many notes from him asking me to loan him money. I have received too many notes from him not to know that he can not write. In other words, I have received notes signed with his name, purporting to have been written by him, though I have never seen him to this date use a pencil." I thought awhile and then I says: "Now, I tell you; if you will look into a drawer in the safe you will find the card of a jeweler from whom Conley bought a watch on the installment. Now, perhaps if you go to that jeweler you may find some sort of a receipt that Conley had to give and be able to prove that Conley can write." Well, Gottheimer took that information back to the Pinkertons; they did just as I said; they got the contract with Conley's name on it, got back evidently to Scott and then he told the negro to write. Gentlemen, the man who found out or paved the way to find out that Jim Conley could write is sitting right here in this chair. That is the truth about it.

Then that other insinuation, an insinuation that is dastardly that it is beyond the appreciation of a human being, that is, that my wife didn't visit me; now the truth of the matter is this, that on April 29th, the date I was taken in custody at police headquarters, my wife was there to see me, she was downstairs on the first floor; I was up on the top floor. She was there almost in hysterics, having been brought there by her two brothers-in-law, and her father. Rabbi Marx was with me at the time. I consulted with him as to the advisability of allowing my dear wife to come up to the top floor to see me in those surroundings with city detectives, reporters and snapshotters; I thought I would save her that humiliation and that harsh sight, because I expected any day to be turned loose and be returned once more to her side at home. Gentlemen, we did all we could do to restrain her in the first days when I was down at the jail from coming on alone down to the jail, but she was perfectly willing to even be locked up with me and share my incarceration.

Gentlemen, I know nothing whatever of the death of little Mary Phagan. I had no part in causing her death nor do I know how she came to her death after she took her money and left my office. I never even saw Conley in the factory or anywhere else on that date, April 26th, 1913.

The statement of the witness Dalton is utterly false as far as coming to my office and being introduced to me by the woman Daisy Hopkins is concerned. If Dalton was ever in the factory building with any woman, I didn't know it. I never saw Dalton in my life to know him until this crime.

In reply to the statement of Miss Irene Jackson, she is wholly mistaken in supposing that I ever went to a lady's dressing room for the purpose of making improper gaze into the girls' room. I have no recollection of occasions of which she speaks but I do not know that that ladies' dressing room on

the fourth floor is a mere room in which the girls change their outer clothing. There was no bath or toilet in that room, and it had windows opening onto the street. There was no lock on the door, and I know I never went into that room at any hour when the girls were dressing. These girls were supposed to be at their work at 7 o'clock. Occasionally I have had reports that the girls were flirting from this dressing room through the windows with men. It is also true that sometimes the girls would loiter in this room when they ought to have been doing their work. It is possible that on some occasions I looked into this room to see if the girls were doing their duty and were not using this room as a place for loitering and for flirting. These girls were not supposed to be dressing in that room after 7 o'clock and I know that I never looked into that room at any hour when I had any reason to suppose that there were girls dressing therein.

The statement of the negro Conley is a tissue of lies from first to last. I know nothing whatever of the cause of the death of Mary Phagan and Conley's statement as to his coming up and helping me dispose of the body, or that I had anything to do with her or to do with him that day is a monstrous lie.

The story as to women coming into the factory with me for immoral purposes is a base lie and the few occasions that he claims to have seen me in indecent positions with women is a lie so vile that I have no language with which to fitly denounce it.

I have no rich relatives in Brooklyn, N. Y. My father is an invalid. My father and mother together are people of very limited means, who have barely enough upon which to live. My father is not able to work. I have no relative who has any means at all, except Mr. M. Frank who lives in Atlanta, Ga. Nobody has raised a fund to pay the fees of my attorneys. These fees have been paid by the sacrifice in part of the small property which my parents possess.

Gentlemen, some newspaper men have called me "the silent man in the tower," and I kept my silence and my counsel advisedly, until the proper time and place. The time is now; the place is here; and I have told you the truth, the whole truth.

MISS EMILY MAYFIELD, Sworn for the Defendant.

I worked at the pencil factory last year during the summer of 1912. I have never been in the dressing room when Mr. Frank would come in and look at anybody that was undressing.

CROSS EXAMINATION.

I work at Jacobs' Pharmacy. My sister used to work at the pencil factory. I don't remember any occasion when Mr. Frank came in the dressing room door while Miss Irene Jackson and her sister were there.

MISSES ANNIE OSBORNE, REBECCA CARSON, MAUDE WRIGHT, and MRS. ELLA THOMAS, All sworn for the Defendant, testified that they were employees of the National Pencil Company; that Mr. Frank's general character was good; that Conley's general character for truth and veracity was bad and that they would not believe him on oath.

MISSES MOLLIE BLAIR, ETHEL STEWART, CORA COWAN, B. D. SMITH, LIZZIE WORD, BESSIE WHITE, GRACE ATHERTON, and MRS. BARNES, all sworn for the Defendant, testified that they were employees of the National Pencil Company, and work on the fourth floor of the factory; that the general character of Leo. M. Frank was good; that they have never gone with him at any time or place for any immoral purpose, and that they have never heard of his doing anything wrong.

MISSES CORINTHIA HALL, ANNIE HOWELL, LILLIE M. GOODMAN, VELMA HAYES, JENNIE MAYFIELD, IDA HOLMES, WILLIE HATCHETT, MARY HATCHETT, MINNIE SMITH, MARJORIE McCORD, LENA McMURTY, MRS. W. R. JOHNSON, MRS. S. A. WILSON, MRS. GEORGIA DENHAM, MRS. O. JONES, MISS ZILLA SPIVEY, CHARLES LEE, N. V. DARLEY, F. ZIGANKI, and A. C. HOLLOWAY, MINNIE FOSTER, all sworn for the Defendant, testified that they were employees of the National Pencil Company and knew Leo M. Frank, and that his general character was good.

D. I. MacINTYRE, B. WILDAUER, MRS. DAN KLEIN, ALEX DITTLER, DR. J. E. SOMMERFIELD, F. G. SCHIFF, AL. GUTHMAN, JOSEPH GERSHON, P. D. McCARLEY, MRS M. W. MEYER, MRS. DAVID MARX, MRS. A. I. HARRIS, M. S. RICE, L. H. MOSS, MRS. L. H. MOSS. MRS. JOSEPH BROWN, E. E. FITZPATRICK, EMIL DITTLER, WM. BAUER, MISS HELEN LOEB, AL. FOX, MRS. MARTIN MAY, JULIAN V. BOEHM, MRS. MOLLIE ROSENBERG, M. H. SILVERMAN, MRS. L. STERNE, CHAS. ADLER, MRS. R. A. SONN, MISS RAY KLEIN, A. J. JONES, L. EINSTEIN, J. BERNARD, J. FOX, MARCUS LOEB, FRED HEILBRON, MILTON KLEIN, NATHAN COPLAN, MRS. J. E. SOMMERFIELD, all sworn for the Defendant, testified that they were residents of the city of Atlanta, and have known Leo M. Frank ever since he has lived in Atlanta; that his general character is good.

MRS. M. W. CARSON, MARY PIRK, MRS. DORA SMALL, MISS JULIA FUSS, R. P. BUTLER, JOE STELKER, all sworn for the defendant, testified that they were employees of the National Pencil Company; that they knew Leo M. Frank and that his general character is good.

EVIDENCE IN REBUTTAL FOR STATE.

J. R. FLOYD, R. M. GODDARD, A. L. GODDARD, N. J. BALLARD, HENRY CARR, J. S. RICE, LEM SMITH, all sworn for the State, testified that they knew Daisy Hopkins; that her general character for truth and veracity was bad and that they would not believe her on oath. J. R. Floyd testified that he heard Daisy Hopkins talk about Frank and said there was a cot in the basement.

J. T. HEARN, sworn for the State.

I have known C. B. Dalton from 1890 to 1904. At first his general character was bad, but the last I knowed of him, it was good. I would believe him on oath.

CROSS EXAMINATION.

I heard of his being indicted for stealing and selling liquor, but the last year he was in Walton county he joined the church and I never heard a word against him after that.

R. V. JOHNSON, sworn for the State.

I have known C. B. Dalton for about 20 years. His character for truth and veracity is good, and I would believe him on oath.

CROSS EXAMINATION.

I didn't hear he was indicted for liquor selling before he left my county. He was in good standing when he left the church. I knew he was in the chaingang for stealing about 18 or 20 years ago.

W. M. COOK, W. J. ELDER, A. B. HOUSTON, J. T. BORN, W. M. WRIGHT, C. B. McGINNIS, F. P. HEFNER, W. C. HALE, LEON BOYCE, M. G. CALDWELL, A. W. HUNT, W. C. PATRICK, all sworn for the State, testified that they knew C. B. Dalton; that his general character for truth and veracity was good, and that they would believe him on oath.

MISS MYRTIE CATO, MAGGIE GRIFFIN, MRS. C. D. DONEGAN, MRS. H. R. JOHNSON, MISS MARIE CARST, MISS NELLIE PETTIS, MARY DAVIS, MRS. MARY E. WALLACE, ESTELLE WINKLE, CARRIE SMITH, all sworn for the defendant, testified that they were formerly em-

ployed at the National Pencil Company and worked at the factory for a period varying from three days to three and a half years; that Leo M. Frank's character for lasciviousness was bad.

MISS MAMIE KITCHENS, sworn for the State in rebuttal.

I have worked at the National Pencil Company two years. I am on the fourth floor. I have not been called by the defense. Miss Jones and Miss Howard have also not been called by the defense to testify. I was in the dressing room with Miss Irene Jackson when she was undressed. Mr. Frank opened the door, stuck his head inside. He did not knock. He just stood there and laughed. Miss Jackson said, "Well, we are dressing, blame it," and then he shut the door.

CROSS EXAMINATION.

Yes, he asked us if we didn't have any work to do. It was during business hours. We didn't have any work to do. We were going to leave. I have never met Mr. Frank anywhere, or any time for any immoral purposes.

MISS RUTH ROBINSON, sworn for the State in rebuttal.

I have seen Leo M. Frank talking to Mary Phagan. He was talking to her about her work, not very often. He would just tell her, while she was at work, about her work. He would stand just close enough to her to tell her about her work. He would show her how to put rubbers in the pencils. He would just take up the pencil and show her how to do it. That's all I saw him do. I heard him speak to her; he called her Mary. That was last summer

MISS DEWEY HEWELL, sworn for the State in rebuttal.

I stay in the Home of the Good Shepherd in Cincinnati. I worked at the pencil factory four months. I quit in March, 1913. I have seen Mr. Frank talk to Mary Phagan two or three times a day in the metal department. I have seen him hold his hand on her shoulder. He called her Mary. He would stand pretty close to her. He would lean over in her face.

CROSS EXAMINATION.

All the rest of the girls were there when he talked to her. I don't know what he was talking to her about.

MISS REBECCA CARSON, recalled by the State in rebuttal.

I have never gone into the dressing room on the fourth floor with Leo M. Frank.

MISS MYRTICE CATO, MISS MAGGIE GRIFFIN, both sworn for the State, testified that they had seen Miss Rebecca Carson go into the ladies dressing room on the fourth floor with Leo M. Frank two or three times during working hours; that there were other ladies working on the fourth floor at the time this happened.

J. E. DUFFY, sworn for the State in rebuttal.

I worked at the National Pencil Company. I was hurt there in the metal department. I was cut on my forefingers on the left hand. That is the cut right around there (Indicating). It never cut off any of my fingers. I went to the office to have it dressed. It was bleeding pretty freely. A few drops of blood dropped on the floor at the machine where I was hurt. The blood did not drop anywhere else except at that machine. None of it dropped near the ladies dressing room, or the water cooler. I had a large piece of cotton wrapped around my finger. When I was first cut I just slapped a piece of cotton waste on my hand.

CROSS EXAMINATION.

I never saw any blood anywhere except at the machine. I went from the office to the Atlanta Hospital to have my finger attended to.

W. E. TURNER, sworn for the State in rebuttal.

I worked at the National Pencil Company during March of this year. I saw Leo Frank talking to Mary Phagan on the second floor, about the middle of March. It was just before dinner. There was nobody else in the room then. She was going to work and he stopped to talk to her. She told him she had to go to work. He told her that he was the superintendent of the factory, and that he wanted to talk to her, and she said she had to go to work. She backed off and he went on towards her talking to her. The last thing I heard him say was he wanted to talk to her. That is all I saw or heard.

CROSS EXAMINATION.

That was just before dinner. The girls were up there getting ready for dinner. Mary was going in the direction where she worked, and Mr. Frank was going the other way. I don't know whether any of the girls were still at work or not. I didn't look for them. Some of the girls came in there while this was going on and told me where to put the pencils. Lemmie Quinn's office is right there. I don't know whether the girls saw him talking to Mary or not, they were in there. It was just before the whistle blew at noon. Mr. Frank told her he wanted to speak to her and she said she had to go to work, and the girls came in there while this conversation was going on. I can't describe Mary Phagan. I don't know any of the other little girls

in there. I don't remember who called her Mary Phagan, a young man on the fourth floor told me her name was Mary Phagan. I don't know who he was. I didn't know anybody in the factory. I can't describe any of the girls. I don't know a single one in the factory.

W. P. MERK, sworn for the State in rebuttal.

I have been a motorman for about three years, in the employ of the Georgia Railway & Electric Company. I know Daisy Hopkins. I have met her at the corner of Whitehall and Alabama St. between 2:30 and 3:30 on a Saturday. She said she was going to pencil factory. I made an engagement with her to go to her room to see her that Saturday. I was in a room with her at the corner of Walker and Peters St. about 8:30 o'clock. She told me she had been to the pencil factory that afternoon. Her general character for truth and veracity is bad. I would not believe her on oath.

GEORGE GORDON, sworn for the State in rebuttal.

I am a practicing lawyer. I was at police station part of the time when Minola McKnight was making her statement. I was outside of the door most of the time. I went down there with habeas corpus proceedings to have her sign the affidavit and when I got there the detectives informed me that she was in the room, and I sat down and waited outside for her two hours, and people went in and out of the door, and after I had waited there I saw the stenographer of the recorder's court going into the room and I decided I had better make a demand to go into the room, which I did, and I was then allowed to go into the room and I found Mr. February reading over to her some stenographic statement he had taken. There were two other men from Beck & Gregg Hardware store and Pat Campbell and Mr. Starnes, and Albert McKnight. After that was read Mr. February went out to write it off on the typewriter and while he was out Mr. Starnes said, "Now this must be kept very quiet and nobody be told anything about this." I thought it was agreed that we would say nothing about it. I was surprised when I saw it in the newspapers two or three days afterwards. I said to Starnes: "There is no reason why you should hold this woman, you should let her go." He said he would do nothing without consulting Mr. Dorsey and he suggested that I had better go to Mr. Dorsey's office. I went to his office and he called up Mr. Starnes and then I went back to the police station and told Starnes to call Mr. Dorsey and I presume that Mr. Dorsey told him to let her go. Anyway he said she could go. You (Mr. Dorsey) said you would let her go also. That morning you had said you would not unless I took out a habeas corpus. In the morning after Chief Beavers told me he would not let her go on bond and unless you (Mr. Dorsey) would let her go, I went to your office and told you that she was being held illegally and you admitted it to me and I said we would give bond in any sum that you might ask. You said

you would not let her go because you would get in bad with the detectives, and you advised me to take out a habeas corpus, which I did. The detectives said they couldn't let her go without your consent. You said you didn't have anything to do with locking her up. As to whether Minola McKnight did not sign this paper freely and voluntarily (State's exhibit J), it was signed in my absence while I was at police station. When I came back this paper was lying on the table signed. That paper is substantially the notes that Mr. February read over to her. As they read it over to her, she said it was about that way. Yes, you agreed with me that you had no right to lock her up. I don't know that you said you didn't do it. I don't remember that we discussed that. You told me that you would not direct her to be let loose, because you would get in bad with the detectives. I had told you that the detectives told me they would not release her unless you said so. I took out a habeas corpus immediately afterwards and went down there to get her released, and she was released.

CROSS EXAMINATION.

I heard that they had had her in Mr. Dorsey's office and she went away screaming and was locked up. I knew that Mr. Dorsey was letting this be done. She was locked in a cell at the police station when I saw her. They admitted that they did not have any warrant for her arrest. Beavers said he would not let her out on bond unless Mr. Dorsey said so. He said the charge against her was suspicion. They put her in a cell and kept her until four o'clock the next day before they let her go. When I went down to see her in the cell, she was crying and going on and almost hysterical. When I asked Mr. Dorsey to let her go out on bond, he said he wouldn't do it because he would get in bad with the detectives, but that if I would let her stay down there with Starnes and Campbell for a day, he would let her loose without any bond, and I said I wouldn't do it. I said that I considered it a very reprehensible thing to lock up somebody because they knew something, and he said, "Well, it is sometimes necessary to get information," and I said, "Certainly our liberty is more necessary than any information, and I consider it a trampling on our Anglo Saxon liberties." They did not tell me that they already had a statement that she had made, and which she declared to be the truth.

RE-DIRECT EXAMINATION.

You (Mr. Dorsey) did not tell me that you had no right to lock anybody up. I told you that, and you agreed to it, but you would not let her go. I told you that Chief Beavers said he would do what you said and then I asked you to give me an order. You said you wouldn't give me an order. When I told Starnes that I thought I ought to be in that room while Minola was making the statement, he knocked on the door, and it was unlocked on the inside and they let me in. They let me into the room at once after I had been sitting there two hours. I was present when she made the statement

about the payment of the cook. I don't remember what questions I asked her at that time. I was her attorney. I didn't go down there to examine her; I went there to get her out. Starnes and Campbell were in and out of the room during the time. Mr. Starnes stayed on the outside of the door part of the time. I don't know who was in the room and who was not while I was outside.

ALBERT McKNIGHT, sworn for the State in rebuttal.

This sideboard (defendant's exhibit 63) sets more this way than it was at the time I was there.

CROSS EXAMINATION.

I don't know if the sideboard was changed, but it wasn't setting like that is in the corner. I didn't see the sideboard at all, but I don't like the angle of this plat.

R. L. CRAVEN, sworn for the State in rebuttal.

I am connected with the Beck and Gregg Hardware Co. Albert McKnight also works for the same company. He asked me to go down and see if I could get Minola McKnight out when she was arrested. I went there for that purpose. I was present when she signed that affidavit (State's exhibit J.) I went out with Mr. Pickett to Minola McKnight's home the latter part of May. Albert McKnight was there. On the 3rd day of June, we were down at the station house and they brought Minola McKnight in and we questioned her first as to the statements Albert had given me; at first she would not talk, she said she didn't know anything about it. I told her that Albert made the statement that he was there Saturday when Mr. Frank came home, and he said Mr. Frank came in the dining room and stayed about ten minutes and went to the sideboard and caught a car in about ten minutes after he first arrived there, and I went on and told her that Albert had said that Minola had overheard Mrs. Frank tell Mrs. Selig that Mr. Frank didn't rest well and he came home drinking and made Mrs. Frank get out of bed and sleep on a rug by the side of the bed and wanted her to give him his pistol to shoot his head off and that he had murdered somebody, or something like that. Minola at first hesitated, but finally she told everything that was in that affidavit. When she did that Mr. Starnes, Mr. Campbell, Mr. February, Albert McKnight, Mr. Pickett, and Mr. Gordon were there. When we were questioning her, I don't remember whether anybody but Mr. Pickett and myself and Albert McKnight were there.

CROSS EXAMINATION.

We went down there about 11:30 o'clock. I didn't know that she had been in jail twelve hours then. I suppose she was in jail because they needed

her as a witness. I was in Mr. Dorsey's office only one time about this matter, the same morning I started out to see if I could get her and I went to see Mr. Dorsey about getting her out. Her husband wanted her out of jail and I went to see Mr. Dorsey about getting her out. At first she denied it. I questioned her for something like two hours. I didn't know she had already made a statement about the truth of the transaction. Mr. Dorsey didn't read it to me. He said she was hysterical and wouldn't talk at all. I went down to get her to make some kind of a statement; I wanted her to tell the truth in the matter. I wanted to see whether her husband was telling the truth or whether she was telling a falsehood. Yes, she finally made a statement that agreed with her husband, and I left after awhile. As to why I didn't stay and get her out, because I didn't want to. I went after we got her statement. No, I didn't get her out of jail. I did not look after her any further than that. I don't think Mr. Dorsey told me to question her. He wanted me to go out to see her. He said Mr. Starnes and Mr. Campbell would be up there and they would let us know about it, and we went up there and Mr. Starnes and Mr. Campbell brought her in. They let us see her alright. I did not ask Campbell or Starnes to turn her out. I didn't ask anybody to turn her out. I never made any suggestion to anybody about turning her out. Nobody cursed, mistreated or threatened this woman while I was there. I don't know what took place before I got there.

E. H. PICKETT, sworn for the State in rebuttal.

I work at Beck & Gregg Hdw. Co. I was present when that paper was signed (State's exhibit J) by Minola McKnight. Albert McKnight, Starnes, Campbell, Mr. Craven, Mr. Gordon was present when she made that statement. We questioned her about the statement Albert had made and she denied it all at first. She said she had been cautioned not to talk about this affair by Mrs. Frank or Mrs. Selig. She stated that Albert had lied in what he had told us. She finally began to weaken on one or two points and admitted that she had been paid a little more money than was ordinarily due her. There was a good many things in that statement that she did not tell us, though, at first. She didn't tell us all of that when she went at it. She seemed hysterical at the beginning. We told her that we weren't there to get her into trouble, but came down there to get her out, and then she agreed to talk to us but would not talk to the detectives. The detectives then retired from the room. Albert told her that she knew she told him those things. She denied it, but finally acknowledged that she said a few of those things, and among the things I remember is that she was cautioned not to repeat anything that she heard. We asked her a thousand questions perhaps. I don't know how many. I called the detectives and told them we had gotten all the admissions we could. We didn't have any stenographer and Mr. Craven began writing it out, and Mr. Craven had written only a small portion when the stenographer came. She did not make all of that statement in the first talk

she had with us. She didn't say anything with reference to Mrs. Frank having stated anything to her mother on Sunday morning. The affidavit does not contain anything that she did not state there that day. Before she made that affidavit, she said he did eat dinner that day. She finally said he didn't eat any. At first she said he remained at home at dinner time about half an hour or more. She finally said he only remained about ten minutes. At first she said Albert McKnight was not there that day. She finally said he was there. She said she was instructed not to talk at first. At first she said her wages hadn't been changed, finally said her wages had been raised by the Seligs. As to what, if anything, she said about a hat being given her by Mrs. Selig, the only statement she made about the hat at all was when she made the affidavit. We didn't know anything about the hat before. Nobody threatened her when she was there. When the first questioning was going on Campbell and Starnes were not in there. They came in when we called them and told them we were ready. Her attorney, Mr. Gordon, came in with the detectives.

CROSS EXAMINATION.

As to why we didn't take her statement when she denied saying all those things, because we didn't believe them. We were down there about three hours. We went down there to try and get Minola McKnight out, if we could. We asked Mr. Dorsey to get her out. He said he would let us stand her bond, and he referred us to the detectives to make arrangements. As to why we didn't get her out then, we wanted a statement from her if we could get it. No, I didn't know that whenever the detectives got the story they wanted, they would let her out. As to my going to get her out and then grilling her for three hours, I didn't tell her I was going to get her out; I went down there to get her out, but she left there before I did. She went out of the room. The detectives treated her very nice. They let her go after she made the statement. I knew they were holding her because she did not make a statement confirming her husband. It was not my object to make her statement agree with her husband's statement, but it was my duty as a good citizen to make her tell the truth.

DR. S. C. BENEDICT, sworn for the State in rebuttal.

I am president of the State Board of Health. I was a member of the Board when Dr. Westmoreland preferred charges against Dr. Harris. Those minutes (State's exhibit N) are correct. I desire to say that we do not wish to open up that question again. Dr. Westmoreland's charges are not recorded here. I don't think they were put on the minutes. The reply to the charges were put in the minutes and the action of the Board. The minutes would show what action the Board took.

CROSS EXAMINATION.

Dr. Harris' reply is not entered on the minutes. The reply of the Board to the charges is on the minutes.

J. H. HENDRICKS, sworn for the State in rebuttal.

I am a motorman for the Georgia Railway & Electric Company. On April 26 I was running a street car on the Marietta line to the Stock Yards on Decatur St. I couldn't say what time we got to town on April 26, about noon. I have no cause to remember that day. The English Avenue car, with Matthews and Hollis has gotten to town prior to April 26, ahead of time. I couldn't say how much ahead of time. I have seen them come in two or three minutes ahead of time; that day they came about 12:06. Hollis would usually leave Broad and Marietta St. on my car. I couldn't swear positively what time I got to Broad and Marietta St. on April 26. I couldn't swear what time Hollis and Matthews got there that day. I don't know anything about that. Often they get there ahead of time. Sometimes they are punished for it.

J. C. McEWING, sworn for the State in rebuttal.

I am a street car motorman. I ran on Marietta and Decatur St. April 26. My car was due in town at ten minutes after the hour on April 26. Hollis and Matthews' car was due there 7 minutes after the hour. Hendricks car was due there 5 minutes after the hour. The English Avenue frequently cut off the White City car due in town at 12:05. The White City car is due there before the English Avenue. It is due 5 minutes after the hour and the Cooper Street is due 7 minutes after. The English Avenue would have to be ahead of time to cut off the Cooper St. car. That happens quite often. I have come in ahead of time very often. I have known the English Avenue car to be 4 or 5 minutes ahead of time.

CROSS EXAMINATION.

I don't know when that happened or who ran the car. I don't know whether they ran on schedule time on April 26, or not. When one car is cut off, one might be ahead of time, and one might be behind time. It's reasonable to suppose that the five minutes after car ought to come in ahead of the one due seven minutes after. If it was behind it would be cut off, just as easy as the other one would be cut off by being ahead.

M. E. McCOY, sworn for the State, in rebuttal.

I knew Mary Phagan. I saw her on April 26, in front of Cooledge's place at 12 Forsyth St. She was going towards pencil company, south on Forsyth St. on right hand side. It was near twelve o'clock. I left the corner of Wal-

ton and Forsyth St. exactly twelve o'clock and came straight on down there. It took me three or four minutes to go there.

CROSS EXAMINATION.

I know what time it was because I looked at my watch. First time I told it was a week ago last Saturday, when I told an officer. I didn't tell it because I didn't want to have anything to do with it. I didn't consider it as a matter of importance until I saw the statement of the motorman of the car she came in on, and I knew that was wrong. She was dressed in blue, a low, chunky girl. Her hair was not very dark. She had on a blue hat.

GEORGE KENDLEY, sworn for the State in rebuttal.

I am with the Georgia Railway & Power Co. I saw Mary Phagan about noon on April 26. She was going to the pencil factory from Marietta St. When I saw her she stepped off of the viaduct.

CROSS EXAMINATION.

I was on the front end of the Hapeville car when I saw her. It is due in town at 12 o'clock. I don't know if it was on time that day. I told several people about seeing her the next day. If Mary Phagan left home at 10 minutes to 12, she ought to have got to town about 10 minutes after 12, somewhere in that neighborhood. She could not have gotten in much earlier. The time that I saw her is simply an estimate. That was the time my car was due in town. I remember seeing her by reading of the tragedy the next day. I didn't testify at the Coroner's inquest because nobody came to ask me. No, I have not abused and villified Frank since this tragedy. No, I have not made myself a nuisance on the cars by talking of him. I know Mr. Brent. I didn't tell him that Mr. Frank's children said he was guilty. Mr. Brent asked me what I thought about it several times on the car. He has always been the aggressor. As to whether I abused and villified him in the presence of Miss Haas and other passengers, there has been so much talk that I don't know what has been said. I don't think I said if he was released I would join a party to lynch him. Somebody said if he got out there might be some trouble. I don't remember saying that I would join a party to help lynch him if he got out. I talked to Mr. Leach about it. I don't remember what I told him. I told him I saw her over there about 12 o'clock. That was the time the car was due in town. I know I saw her before 12:05. My car was on schedule time. I couldn't swear it was exactly on the minute.

HENRY HOFFMAN, sworn for the State in rebuttal.

I am inspector of the street car company. Matthews is under me a certain part of the day. On April 26 he was under me from 11:30 to 12:07. His car was due at Broad and Marietta at 12:07. There is no such schedule as

12:07 1-2. I have been on his car when he cut off the Fair St. car. Fair St. car is due at 12:05. I have compared watches with him. They vary from 20 to 40 seconds. We are supposed to carry the right time. I have called Matthews attention to running ahead of schedule once or twice. They come in ahead of time on relief time for supper and dinner.

CROSS EXAMINATION.

I don't know anything about his coming on April 26th. We found out he was ahead of time way along last March. He was a minute and a half ahead. I have caught him as much as three minutes ahead of time last spring, on the trip due in town 12:07. I didn't report him, I just talked to him. I have known him to be ahead of time twice in five years while he was under my supervision.

N. KELLY, sworn for the State in rebuttal.

I am a motorman of the Georgia Railway & Power Co. On April 26, I was standing at the corner of Forsyth and Marietta St. about three minutes after 12. I was going to catch the College Park car home about 12:10. I saw the English Avenue car of Matthews and Mr. Hollis arrive at Forsyth and Marietta about 12:03. I knew Mary Phagan. She was not on that car. She might have gotten off there, but she didn't come around. I got on that car at Broad and Marietta and went around Hunter St. She was not on there.

CROSS EXAMINATION.

I didn't say anything about this because I didn't want to get mixed up in it. I told Mr. Starnes about it this morning. I have never said anything about it before. That car was due in town at 12:07. The Fair St. car was behind it.

W. B. OWENS, sworn for the State in rebuttal.

I rode on the White City line of the Georgia Railway & Electric Co. It is due at 12:05. Two minutes ahead of the English Avenue car. We got to town on April 26, at 12:05. I don't remember seeing the English Avenue car that day. I have known that car to come in a minute ahead of us, sometimes two minutes ahead. That was after April 26. I don't recall whether it occurred before April 26.

LOUIS INGRAM, sworn for the State in rebuttal.

I am a conductor on the English Avenue line. I came to town on that car on April 26. I don't know what time we came to town. I have seen that car come in ahead of time several times, sometimes as much as four minutes

ahead. I know Matthews, the motorman. I have ridden in with him when he was ahead of time several times.

CROSS EXAMINATION.

It is against the rules to come in ahead of time, and also to come in behind time. They punish you for either one.

W. M. MATTHEWS, sworn for the State in rebuttal.

I have talked with this man Dobbs (W. C.) but I don't know what I talked about. I have never told him or anybody that I saw Mary Phagan get off the car with George Epps at the corner of Marietta and Broad. It has been two years since I have been tried for an offense in this court.

CROSS EXAMINATION.

I was acquitted by the jury. I had to kill a man on my car who assaulted me.

W. C. DOBBS, sworn for the State in rebuttal.

Motorman Matthews told me two or three days after the murder that Mary Phagan and George Epps got on his car together and left at Marietta and Broad St.

CROSS EXAMINATION.

Sergeant Dobbs is my father.

W. W. ROGERS, sworn for the State in rebuttal.

On Sunday morning after the murder, I tried to go up the stairs leading from the basement up to the next floor. The door was fastened down. The staircase was very dusty, like it had been some little time since it had been swet. There was a little mound of shavings right where the chute came down on the basement floor. The bin was about a foot and a half from the chute.

SERGEANT L. S. DOBBS, sworn for the State in rebuttal.

I saw Mr. Rogers on Sunday try to get in that back door leading up from basement in rear of factory. There were cobwebs and dust there. The door was closed.

O. TILLANDER, sworn for the State in rebuttal.

Mr. Graham and I went to the pencil factory on April 26, about 20 minutes to 12. We went in from the street and looked around and I found a

negro coming from a dark alley way, and I asked him for the office and he told me to go to the second floor and turn to the right. I saw Conley this morning. I am not positive that he is the man. He looked to be about the same size. When I went to the office the stenographer was in the outer office. Mr. Frank was in the inner office sitting at his desk. I went there to get my step-son's money.

E. K. GRAHAM, sworn for the State in rebuttal.

I was at the pencil factory April 26, with Mr. Tillander, about 20 minutes to 12. We met a negro on the ground floor. Mr. Tillander asked him where the office was, and he told him to go up the steps. I don't know whether it was Jim Conley or not. He was about the same size, but he was a little brighter than Conley. If he was drunk I couldn't notice it. I wouldn't have noticed it anyway.

CROSS EXAMINATION.

Mr. Frank and his stenographer were upstairs. He was at his desk. I didn't see any lady when I came out.

J. W. COLEMAN, sworn for the State in rebuttal.

I remember a conversation I had with detective McWorth. He exhibited an envelope to me with a figure "5" on the right of it.

CROSS EXAMINATION.

This does not seem to be the envelope he showed me. (Defendant's exhibit 47). The figure "5" was on it. I don't see it now. I told him at the time that Mary was due $1.20, and that "5" on the right would not suit for that.

J. M. GANTT, sworn for the State in rebuttal.

I have seen Leo Frank make up the financial sheet. It would take him an hour and a half after I gave him the data.

IVY JONES (c), sworn for the State in rebuttal.

I saw Jim Conley at the corner of Hunter and Forsyth St. on April 26. He came in the saloon while I was there, between one and two o'clock. He was not drunk when I saw him. The saloon is on the opposite corner from the factory. We went on towards Conley's home. I left him at the corner of Hunter and Davis St. a little after two o'clock.

HARRY SCOTT, sworn for the State in rebuttal.

I picked up cord in the basement when I went through there with Mr. Frank. Lee's shirt had no color on it, excepting that of blood. I got the information as to Conley's being able to write from McWorth when I returned to Atlanta. As to the conversation Black and I had, with Mr. Frank about Darley, Mr. Frank said Darley was the soul of honor and that we had the wrong man; that there was no use in inquiring about Darley and he knew Darley could not be responsible for such an act. I told him that we had good information to the effect that Darley had been associating with other girls in the factory; that he was a married man and had a family. Mr. Frank didn't seem to know anything about that. He said it was a peculiar thing for a man in Mr. Darley's position to be associating with factory employees, if he was doing it.

CROSS EXAMINATION.

We left after about two hours interview.

L. T. KENDRICK, sworn for the State in rebuttal.

I was night watchman at the pencil factory for something like two years. I punched the clocks for a whole night's work in two or three minutes. The clock at the factory needed setting about every 24 hours. It varied from three to five minutes. That is the clock slip I punched (State Exhibit P). I don't think you could have heard the elevator on the top floor if the machinery was running or any one was knocking on any of the floors. The back stairway was very dusty and showed that they had not been used lately after the murder. I have seen Jim Conley at the factory Saturday afternoons when I went there to get my money.

CROSS EXAMINATION.

I generally got to the factory about a quarter of two to two-thirty. The clock was usually corrected every morning. The clock would run slow sometimes and sometimes fast.

VERA EPPS, sworn for the State in rebuttal.

My brother George was in the house when Mr. Minar was asking us about the last time we saw Mary Phagan. I don't know if he heard the questions asked. George didn't tell him that he didn't see Mary that Saturday. I told him I had seen Mary Phagan Thursday.

C. J. MAYNARD, sworn for the State in rebuttal.

I have seen Burtus Dalton go in the factory with a woman in June or July, 1912. She weighed about 125 pounds. It was between 1:30 and 2 o'clock in the afternoon on a Saturday.

CROSS EXAMINATION.

I was ten feet from the woman. I didn't notice her very particularly. I did not speak to them.

W. T. HOLLIS, sworn for the State in rebuttal.

Mr. Reed rides out with me every morning. I don't remember talking to J. D. Reed on Monday April 29, and telling him that George Epps and Mary Phagan were on my car together. I didn't tell that to anybody. I say like I have always said, that if he was on the car I did not see him.

J. D. REED, sworn for the State in rebuttal.

Mr. Hollis told me on Monday, April 28, that Epps had gotten on the car and taken his seat next to Mary, and that the two talked to each other all the way as though they were little sweethearts.

J. N. STARNES, sworn for the State in rebuttal.

There were no spots around the scuttle hole where the ladder is immediately after the murder. Campbell and I arrested Minola McKnight, to get a statement from her. We turned her over to the patrol wagon and we never saw her any more until the following day, when we called Mr. Craven and Mr. Pickett to come down and interview her. We stayed on the outside while she was on the inside with Craven and Pickett. They called us back and I said to her, "Minola, the truth is all we want, and if this is not the truth, don't you state it. And she started to put the statement down. Mr. Gordon, her attorney, was on the outside, and I told him we could go inside without his making any demand on me, and he went in with me, and Mr. February had already taken down part of the statement and I stopped him and made him read over what he had already taken down, and after she had finished the statement, Attorney Gordon went to Mr. Dorsey's office and then he came back to the police station. After he returned the affidavit was read over in the presence of Mr. Pickett, Craven, Campbell, Albert McKnight, and Attorney Gordon and she signed it in our presence. You (Mr. Dorsey) had nothing to do with holding her. You told me over the phone that you couldn't say what I could do, but that I could do what I pleased about it.

CROSS EXAMINATION.

No, I did not lock her up because she didn't give us the right kind of statement; as to the authority I had to lock her up, it was reasonable and right that she should be locked up. I did that for the best interest of the case I was working on. No, I didn't have any warrant for her arrest. She was brought to Mr. Dorsey's office by a bailiff by a subpoena. I took her away

from Dorsey's office and put her in a patrol wagon. I expect Mr. Dorsey knew we were going to lock her up, but he did not tell us to do it. No, he didn't disapprove of it. I didn't know anything about her having made a previous statement to Mr. Dorsey. I think Mr. Dorsey said she had made such a statement. I saw her the next day in the station house. She didn't scream after leaving Dorsey's office until she reached the sidewalk. And then she commenced hollering and carrying on that she was going to jail; that she didn't know anything about it, or something like that. No, I had no warrant for her arrest. She had committed no crime. I held her to get the truth. Mr. Dorsey told me I could turn her loose as I pleased. That was after she made the statement. I told him as to what had occurred and that her attorney, Gordon, was coming up there to see him. I told Col. Gordon that if it was agreeable with Col. Dorsey, that Minola could go as far as we were concerned. Well, Mr. Dorsey had more or less to do with the case that I was working on and I wanted to act on his advice and consent. He called me on the telephone and told me that if the chief thought it best or if we thought it best after conferring, to just let her go.

DR. CLARENCE JOHNSON, sworn for the State in rebuttal.

I am a specialist on diseases of the stomach and intestines. I am a physiologist. A physiologist makes his searches on the living body; the pathologist makes his on a dead body. If you give any one who has drunk a chocolate milk at about eight o'clock in the morning, cabbage at 12 o'clock and 30 or 40 minutes thereafter you take the cabbage out and it is shown to be dark like chocolate and milk, that much contents of any kind vomited up three and a half hours afterwards would show an abnormal stomach. It doesn't show a normal digestion. If a little girl who eats a dinner of cabbage and bread at 11:30 is found the next morning dead at 3 a. m., with a rope around her neck, indented and the flesh sticking up, bruised on the eye, blood on the back of her head, the tongue sticking out, blue skin, every indication that she came to her death from strangulation, her head down, rigor mortis had been on her twenty hours, the blood had settled in her where the gravity would naturally take it in the face, she is embalmed, formaldehyde is used and injected in the various cavities of the body, including the stomach, a pathologist takes her stomach a week or ten days after, finds cabbage of that size (State's exhibit G) in the stomach, finds starch granules undigested, and finds in the stomach that the pyloris is still closed, that there is nothing in the first six feet of the small intestines; that there is every indication that digestion had been progressing favorably, and finds thirty-two degrees hydrochloric acid, and if the pathologist is capable and finds that there was only combined hydrochloric acid and that there was no abnormal condition of the stomach the six feet of the intestines was empty, I would say that the digestion of bread and cabbage was stopped within an hour after they were eaten. That would not be a wild guess in my opinion.

CROSS EXAMINATION.

The bruises on the head, the evidence of strangulation and other injuries about the head are other possible factors which must be taken into consideration. Anything which disturbs the circulation of the blood, or hinders the action of the nerves controlling the stomach, especially the secretion, prevents the development of the characteristics found in normal digestion one hour after a meal. I mean by mechanical condition of the stomach, no change in the size or thickness, or opening into the intestines, or size or thickness of intestines. The test should be made with absolute accuracy with these acids. The color test is generally accepted. A man's eye has to be absolutely correct to make the color test. The degree of acidity in a normal stomach varies from 30 to 45 degrees, according to the stomach and what is in it. The formaldehyde would make no change on the physical property on the pancreatic juice found in the small intestine after death. There would be hardly any change on its chemical property. When it comes in contact with the formaldehyde it is supposed to be preserved. It has some neutralizing effect on the alkali present. That decomposes in time after death, unless hindered by some preservative. The hydrochloric acids in the stomach also disappear if the stomach has disintegrated and the preservative has disappeared. It disappears like the other fluids and tissues of the body unless hindered by some preservative agent. Sometimes digestion is delayed a good deal even in a normal stomach by insufficient mastication, too much diluting of the juices, or anything that hinders the operation of the mechanical effect. Insufficient mastication is one of the commonest causes, also the taking of too much liquid. Fatigue occasioned by extensive walking would hinder it. If the walking was not too extensive to produce fatigue, it would help digestion in a normal stomach. Insufficient mastication is the worst cause of delayed digestion. My estimate was that the cabbage was found an hour after the process of digestion had begun. I did not undertake to say when the digestion began. You can't tell by looking at food in a bottle how much the failure to masticate it delayed digestion in hours and minutes. It would be just an estimate. The physical appearance of that cabbage (Defendant's Exhibit 88) shows indigestion by the layer, character and size, and area of separation between, and the character and arrangement of the layers below. The mere fact that it was vomited up would be proof positive that no scientific opinion could be made about it. To make a scientific test I would have to test the mechanism of the stomach, the time it was in there and the degree and presence of the different acids. The chocolate milk would not naturally stay in a normal stomach five or six hours. The cabbage would stay in a normal empty stomach where there was a tomato also three or four hours. I never made any test of Mary Phagan's stomach and examined the contents of it.

RE-DIRECT EXAMINATION.

160 cubic cc. of liquid in the stomach taken out nine days afterwards would be a little in excess of what I would consider normal under the conditions already named.

DR. GEORGE M. NILES, sworn for the State in rebuttal.

I confine my work to diseases of digestion. Every healthy stomach has a certain definite and orderly relation to every other healthy stomach. Assuming a young lady between thirteen and fourteen years of age at 11:30 April 26, 1913, eats a meal of cabbage and bread, that the next morning about three o'clock her dead body is found. That there are indentations in her neck where a cord had been around her throat, indicating that she died of strangulation her nails blue, her face blue, a slight injury on the back of the head, a contused bruise on one of her eyes, the body is found with the face down, rigor mortis had been on from sixteen to twenty hours, that the blood in the body has settled in the part where gravity would naturally carry it, that the body is embalmed immediately with a fluid consisting chiefly of formaldehyde, which is injected in the veins and cavities of the body; that she is disinterred nine days thereafter; that cabbage of this texture (State's exhibit G) is found in her stomach; that the position of the stomach is normal; that no inflammation of the stomach is found by miscroscopic investigation; that no mucous is found, and that the glands found under this microscope are found to be normal, that there is no obstruction to the flow of the contents of the stomach to the small intestine; that the pyloris is closed; that there is every indication that digestion was progressing favorably; that in the gastric juices there is found starch granules that are shown by the color test to have been undigested, and that in that stomach you also find thirty-two degrees of hydrochloric acid, no maltose, no dextrin, no free hydrochloric acid (there would be more or less free hydrocholoric acid in the course of an hour or more in the orderly progress of digestion of a healthy stomach where the contents are carbohydrates), I would say that indicated that digestion had been progressing less than an hour. The starch digestion should have progressed beyond the state erythrodextrin in course of an hour. There should have been enough free acid to have stimulated the pyloris to relax to a certain extent, and there should have been some contents in the duodenum. I am assuming, of course, that it is a healthy stomach and that the digestion was not disturbed by any psychic cause which would disturb the mind or any severe physical exercise. I am not going so much on the physical appearance of the cabbage. Any severe physical exercise or mental stress has quite an influence on digestion. Death does not change the composition of the gastric juices when combined with hydrocholoric acid for quite awhile. The gastric juices combined with the hydrocholoric acid are an antiseptic or preservative. There is a wide variation in diseased stomachs as to digestion.

CROSS EXAMINATION

There are idiosyncracies in a normal stomach, but where they are too marked I would not consider that a normal stomach. I wouldn't say that there is a mechanical rule where you can measure the digestive power of every stomach for every kind of food. There is a set time for every stomach to digest every kind of food within fairly regular limits, that is, a healthy stomach. There is a fairly mixed standard. There is no great amount of variation between healthy stomachs. I can't answer for how long it takes cabbage to digest. I have taken cabbage out of a cancerous stomach that had been in there twenty-four hours, but there was no obstruction. The longest time that I have taken cabbage out of a fairly normal stomach was between four and five hours. That was where it was in the stomach along with another meal. I found the cabbage among the remains of the meal four or five hours after it had been eaten. Mastication is a very important function of digestion. Failure to masticate delays the starch digestion. Starch and cabbage are both carbohydrates. I would say that if cabbage went into a healthy stomach not well masticated, the starch digestion would not get on so well, but the stomach would get busy at once. Of course, it would not be prepared as well. The digestion would be delayed, of course. That cabbage is not as well digested as it should have been (State's exhibit G), but the very fact of your anticipating a good meal, smelling it, starts your saliva going and forms the first stage of digestion, and digestion is begun right there in the mouth, even if you haven't chewed it a single time. Any deviation from good mastication retards digestion. I couldn't presume to say how long that cabbage lay in Mary Phagan's stomach. I believe if it had been a live, healthy stomach and the process of digestion was going on orderly, it would be pulverized in four or five hours. It would be more broken up and tricturated than it is. I wouldn't consider that a wild guess. I think it would have been fairly well pulverized in three hours. Chewing amounts to a great deal, but there should be an amount of saliva in her stomach even if she hadn't masticated it thoroughly. Chewing is a temperamental matter to a great extent. One man chews his meal quicker than another. If it isn't chewed at all, the stomach gets busy and helps out all it can and digests it after awhile. It takes more effort, of course, but not necessarily more time. What the teeth fail to do the stomach does to a great extent. The stomach has an extra amount of work if it is not masticated. You can't tell by looking at the cabbage how long it had been undergoing the process of digestion. If that was a healthy stomach with combined acid of 32 degrees, and nothing happened either physical or mental to interfere with digestion, those laboratory findings indicated that digestion had been progressing less than an hour. I never made an autopsy or examination of the contents of Mary Phagan's stomach.

RE-DIRECT EXAMINATION.

The first stage of digestion is starch digestion. This progresses in the stomach until the contents become acid in all its parts. Then the starch diges-

tion stops until the contents get out in the intestines and become alkaline in reaction; then the starch digestion is continued on beyond. The alfactories act as a stimulant to the salivary glands.

DR. JOHN FUNK, sworn for the State in rebuttal.

I am professor of pathology and bacteriologist. I was shown by Dr. Harris sections from the vaginal wall of Mary Phagan, sections taken near the skin surface. I didn't see sections from the stomach or the contents. These sections showed that the epithelium wall was torn off at points immediately beneath that covering in the tissues below, and there was infiltrated pressure of blood. They were, you might say, engorged, and the white blood cells in those blood vessels were more numerous than you will find in a normal blood vessel. The blood vessels at some distance from the torn point were not so engorged to the same extent as those blood vessels immediately in the vicinity of the hemorrhage. Those blood vessels were larger than they should be under normal circumstances, as compared with the blood vessels in the vicinity of the tear. You couldn't tell about any discoloration, but there was blood there. It is reasonable to suppose that there was swelling there because of the infiltrated pressure of the blood in the tissues. Those conditions must have been produced prior to death, because the blood could not invade the tissues after death. If a young lady, between thirteen and fourteen years old eats at eleven thirty a. m. a normal meal of bread and cabbage on a Saturday and at three a. m. Sunday morning she is found with a cord around her neck, the skin indented, the nails and flesh cyanotic, the tongue out and swollen, blue nails, everything indicating that she had been strangled to death, that rigor mortis had set in, and according to the best authorities had probably progressed from sixteen to twenty hours, and she was laying face down when found, and gravity had forced the blood into that part of the body next to the ground, that it had discolored her features, that immediately thereafter, between ten and two o'clock she was embalmed with a fluid containing usual amount of formaldehyde, this being injected into the veins in the large cavities, she is interred thereafter and in about a week or ten days she is disinterred, and you find in her stomach cabbage like that (State's Exhibit G) and you find granules of starch undigested, and those starch granules are developed by the usual color tests, and you also find in that stomach thirty-two degrees of combined hydrochloric acid, the pyloris closed, and the duodenum, and six feet of the small intestines empty, no free hydrocholoric acid being present at all, nor dextrin, or erythrodextrin being found in any degree, and the uterus was somewhat enlarged, and the walls of the vagina show dilation and swelling, I would say that under those conditions that the epithelium was torn off before death, because of the changes in the blood vessels and tissues below the epithelium covering, and because of the presence of blood. I would not express an opinion as to how long cabbage had been in the stomach, from the appearance of the cabbage itself, taking into consideration the combined hydro-

choloric acid of thirty-two degrees, the emptiness of the small intestine, the presence of starch granules, and the absence of free hydrocholoric acid, one can't say positively, but it is reasonable to assume that the digestion had progressed probably an hour, maybe a little more, maybe a little less.

CROSS EXAMINATION.

Dr. Dorsey asked me to examine the sections of the vaginal wall last Saturday. The sections I examined were about a quarter of an inch wide and three-quarters of an inch long. It was about nine twenty-five thousandths of an inch thick, that is, much thinner than tissue paper. I examined thirty or forty little strips. That was after this trial began. I was not present at the autopsy. As soon as a tissue receives an injury, it reacts in a very short time. The reaction shows up in the changes of the blood vessels. You can tell by the appearance of the blood vessels whether the injury was before death or not, and you can give an approximate idea as to the length of time before death. I do not know from what body the sections were taken. I know that it was from a human vagina.

THE STATE CLOSES.

EVIDENCE FOR DEFENDANT IN SUR-REBUTTAL.

T. Y. BRENT, sworn for the Defendant in sur-rebuttal.

I have heard George Kendley on several occasions express himself very bitterly towards Leo Frank. He said he felt in this case just as he did about a couple of negroes hung down in Decatur; that he didn't know whether they had been guilty or not, but somebody had to be hung for killing those street car men and it was just as good to hang one nigger as another, and that Frank was nothing but an old Jew and they ought to take him out and hang him anyhow.

CROSS EXAMINATION.

I have been employed by the defense to assist in subpoenaing witnesses. I took the part of Jim Conley in the experiment conducted by Dr. Wm. Owens at the factory on Sunday.

M. E. STAHL, sworn for the Defendant, in sur-rebuttal.

I have heard George Kendley, the conductor, express his feelings toward Leo Frank. I was standing on the rear platform, and he said that Frank was as guilty as a snake, and should be hung, and that if the court didn't convict him that he would be one of five or seven that would get him.

MISS C. S. HAAS, sworn for the Defendant, in sur-rebuttal.

I heard Kendley two weeks ago talk about the Frank case so loud that the entire street car heard it. He said that circumstantial evidence was the best kind of evidence to convict a man on and if there was any doubt, the State should be given the benefit of it, and that 90 per cent. of the best people in the city, including himself, thought that Frank was guilty and ought to hang.

N. SINKOVITZ, sworn for the Defendant, in sur-rebuttal.

I am a pawnbroker. I know M. E. McCoy. He has pawned his watch to me lately. The last time was January 11, 1913. It was in my place of business on the 26th of April, 1913. He paid up his loan on August 16, last Saturday, during this trial. This is the same watch I have been handling for him during the last two years.

CROSS EXAMINATION.

My records here show that he took it out Saturday.

S. L. ASHER, sworn for the Defendant in sur-rebuttal.

About two weeks ago I was coming to town between 5 and 10 minutes to 1 on the car and there was a man who was talking very loud about the Frank case, and all of a sudden he said: "They ought to take that damn Jew out and hang him anyway." I took his number down to report him.

CROSS EXAMINATION.

I have not had a chance to report since it happened.

ADDITIONAL STATEMENT MADE BY DEFENDANT, LEO M. FRANK.

In reply to the statement of the boy that he saw me talking to Mary Phagan when she backed away from me, that is absolutely false, that never occurred. In reply to the two girls, Robinson and Hewell, that they saw me talking to Mary Phagan and that I called her "Mary," I wish to say that they are mistaken. It is very possible that I have talked to the little girl in going through the factory and examining the work, but I never knew her name, either to call her "Mary Phagan," "Miss Phagan," or "Mary."

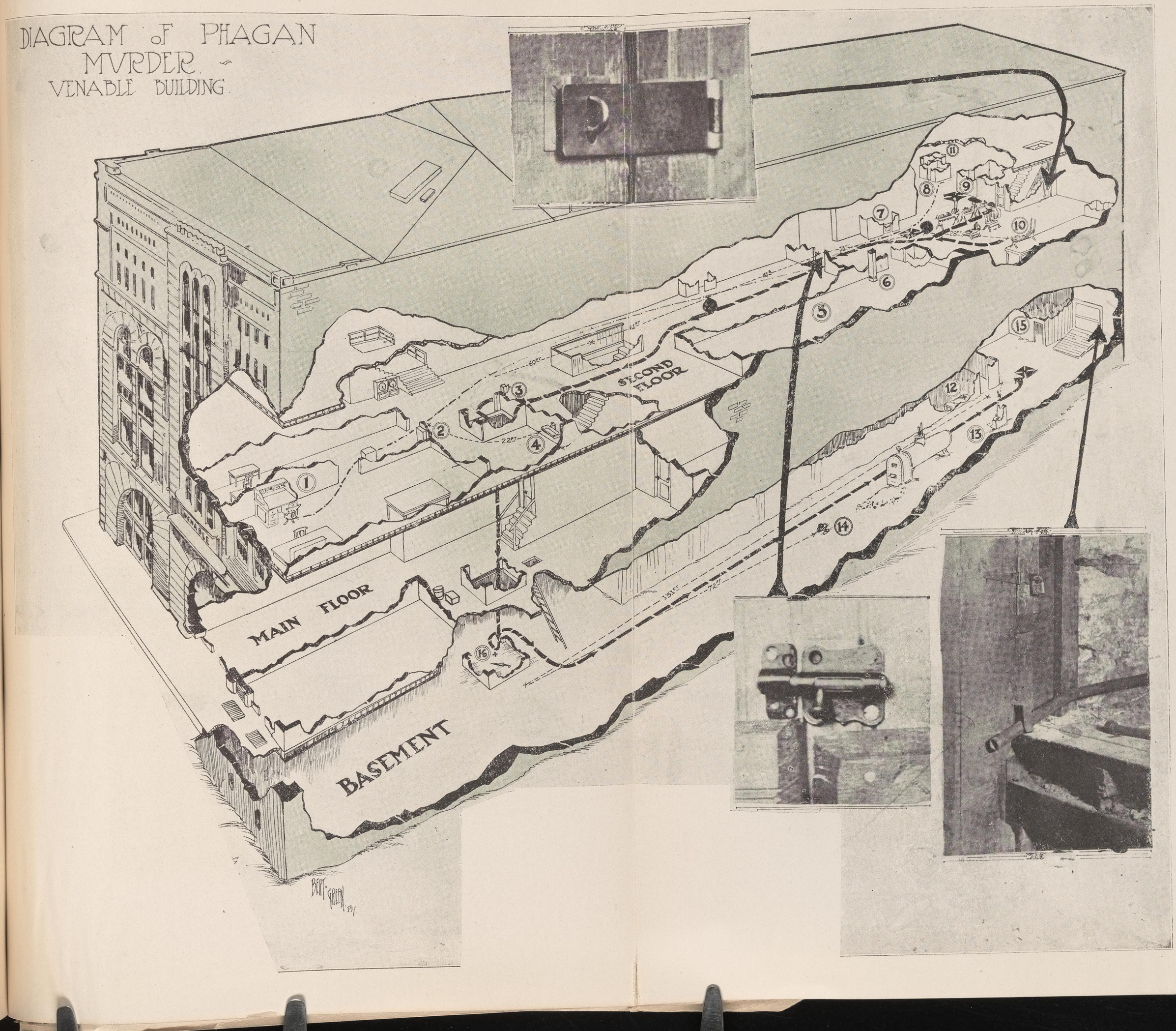
In reference to the statements of the two women who say that they saw me going into the dressing room with Miss Rebecca Carson, I wish to state that that is utterly false. It is a slander on the young lady, and I wish to state that as far as my knowledge of Miss Rebecca Carson goes, she is a lady of unblemished character.

DEFENDANT CLOSES.

DI

STATE'S EXHIBIT A.

Diagram of National Pencil Company Factory.



STATE'S EXHIBIT B.

Frank's statement made before N. A. Lanford, Chief of Detectives, on Monday morning, April 28, 1913, this statement being unsigned:

"I am general superintendent and director of the National Pencil Company. In Atlanta I have held that position since August 10, 1908. My place of business is at 37 to 41 S. Forsyth St. We have about 107 employees in that plant, male and female. I guess there are a few more girls than boys. Saturday, April 26th, was a holiday with our company and the factory was shut down. There were several people who came in during the morning. The office boy and the stenographer were in the office with me until noon. They left about 12 or a little after. We have a day watchman there. He left shortly before 12 o'clock. After the office boy and the stenographer left, this little girl, Mary Phagan, came in, but at the time I didn't know that was her name. She came in between 12:05 and 12:10, maybe 12:07, to get her pay envelope, her salary. I paid her and she went out of the office. I was in the inner office at my desk, the furtherest office to the left from the main office. It was impossible to see the direction she went in when she left. My impression was that she just walked away. I didn't pay any particular attention. I didn't keep the door locked downstairs that morning because the mail was coming in. I locked it at 1:10 when I went to dinner. Arthur White and Harry Denham were also in the building. They were working on the machinery, doing repair work, working on the top floor of the building, which is the fourth floor, towards the rear or about the middle of the building, but a little more to the rear. They were tightening up the belts; they are not machinists; one is a foreman in one department and the other is an assistant in another, and Denham was assisting White, and Mrs. White, the wife of Arthur White, was also in the building. She left about 1 o'clock. I went up there and told them I was going to dinner and they had to get out, and they said they had not finished and I said, 'How long will it take?' and they said until some time in the afternoon, and then I said, 'Mrs. White, you will have to go, for I am going to lock these boys in here.' Anyone from the inside can open the outside door, but not the inside door, which I locked. You can go in the basement from the front through the trap door. No, sir, they could get up the steps if I was out. I locked the outer door and the inner door. I got back at 3 o'clock, and maybe two or three minutes before, and I went to the office and took off my coat and then went upstairs to tell those boys I was back, and I couldn't find them at first, they were back in the dipping room in the rear, and I said, 'Are you ready,' and they said, 'We are just ready,' and I said, 'All right, ring out when you go down to let me know when you go out,' and they rang out, and Arthur White come in the office and said, 'Mr. Frank, loan me $2.00,' and I said, 'What's the matter; we just paid off,' and he said, 'My wife robbed me,' and I give him $2.00 and he walked away, and the two of them walked out. I locked the outer door behind them. When I am in there is no need of locking the inner door. There was only one person

I was looking for to come in, and that was the night watchman. He got there at 20 minutes to four. I had previously arranged for him to get there. On Friday night I told him, after he got his money. I give him the keys and I said, 'You had better come around early to-morrow because I may go to the ball game,' and he come early because of that fact; I told him to come early and he came 20 minutes to 4. I figured that I could leave about 1 o'clock and would not come back, but it was so cold I didn't want to risk catching cold and I come back to the factory as I usually do. He come in and I said 'Newt, you are early,' and he said, 'Yes, sir,' and he had a bag of bananas with him and he offered me a banana; I didn't see them but he offered me one and I guess he had them. We have told him once he gets in that building never to go out; I told him he could go out; he got there so early and I was going to be there. He come back about 4 minutes to six; the reason I know that I was putting the clock slips in and the clock was right in front of me. I said, 'I will be ready in a minute,' and he went downstairs and I come to the office and put on my coat and hat and followed him and went out. When I went out, talking to Newt Lee was J. M. Gantt, a man I had fired about two weeks previous. Newt told me he wanted to go up to get a pair of shoes he left while he was working there, and Gantt said to me, 'Newt don't want me to go up,' and he said, 'You can go with me, Mr. Frank,' and I said 'That's all right, go with him, Newt,' and I went on home, and I got home about 6:25. Nothing else happened; that's all I know. I don't know what time Gantt came down after he went up. I saw him go in and I locked the door after him, but I didn't try them. I telephoned Newt. I tried to telephone him when I got home; he punches the clock at half hour intervals, and the clock and the phone is in the office, and I didn't get an answer and at 7 o'clock I called him and asked him if Gantt got his shoes and he said yes, he got them, and I said is everything all right and he said yes, and the next thing I knew they called me at 7:30 the next morning. I don't know that our watchman has been in the habit of letting people in the factory at any time. I have never heard of it. I never had any trouble with the watchman about it. As to whether any of our employees go there at night, Gantt did when he was working there; he had a key and sometimes he would have some work left over. I never have seen him go out until I go out. I go out and come back, but he has come back before I left, but that is part of his duty. I took a bath Saturday night at my home. I changed my clothes. The clothes that I changed are at home, and this is the suit of clothes I was wearing Saturday. After I left the shop I went to Jacob's Pharmacy and bought a box of candy for my wife and got home about 6:25.''

STATE'S EXHIBIT C.

Piece of cord found around Mary Phagan's neck, about size of a heavy twine, with a knot in it.

STATE'S EXHIBIT D.

Rag that was found around Mary Phagan's neck, with blood on it. White piece of cloth, soiled. Looked as if it was a piece torn off from petticoat.

STATE'S EXHIBIT E.

Four or five chips of wood, with red splotches on them, chipped up from the second floor of the National Pencil Company factory in front of ladies' dressing room.

STATE'S EXHIBIT F.

Shirt found by detectives in trash barrel at Newt Lee's home. Shirt was very bloody; blood was on both sides of shirt and high up on arm-pits on the inside.

STATE'S EXHIBIT G.

Jar containing cabbage extracted from the stomach of Mary Phagan by Dr. Harris. Cabbage was not disintegrated, but was in a whole piece.

STATE'S EXHIBIT H.

Scratch pad that Conley wrote on. Ordinary white scratch pad.

STATE'S EXHIBIT I.

Portion of the signed statement of E. F. Holloway given to Solicitor H. M. Dorsey:

"I don't know C. B. Dalton. I do know Daisy Hopkins. She worked at the factory not less than eight or ten months. I never did see any man go in the factory with Daisy Hopkins after the employees had gone on a Saturday. If they ever came there, they came after I left. I never did know of Daisy Hopkins or other girls going up in the factory on Saturday afternoon with any men. . . .

"This power box that runs the elevator is kept locked all the time. I keep it locked. The key is kept in the office. I locked it Saturday. I put the key back in the office. I always lock it and unlock it. I didn't go to the factory on Sunday. The key was hanging on the same nail on Monday."

STATE'S EXHIBIT J.

Affidavit executed by Minola McKnight for Solicitor Dorsey, as follows:

"State of Georgia,
County of Fulton.

Personally appeared before me, a notary public in and for the above state and county, Minola McKnight, who lives in the rear of 351 Pulliam St., Atlanta, Ga., who being duly sworn deposes and says:

"On Saturday morning, April 26, 1913, Mr. Frank left home about eight o'clock, and Albert, my husband, was there Saturday, too. Albert got there I guess about a quarter after one and he was there when Mr. Frank come for dinner, which was about half-past one, but Mr. Frank did not eat any dinner, and he left in about ten minutes after he got there. Mr. Frank come back to the house at seven o'clock that night, and Albert was there when he got there. Albert had gone home that evening but he come back. I don't know what time he got there, but he come sometime before Mr. Frank did, and Mr. Frank eat supper about seven o'clock, and when I left there that night about eight o'clock, I left Mr. Frank there.

Sunday morning I got there about eight o'clock, and there was an automobile standing in front of the house and I didn't pay any attention to it. I saw a man in the automobile get a bucket of water and pour into it. Mr. Frank's wife was downstairs and Mr. and Mrs. Selig were upstairs. Albert was there Sunday morning, but I don't remember what time he got there. I called them down to breakfast about half past eight and I found out that Mr. Frank was gone. Mr. and Mrs. Selig eat breakfast, but Mrs. Frank didn't eat until Mr. Frank come back and then they eat breakfast together. I didn't hear them say anything at the breakfast table. After dinner I understood them to say that a girl and Mr. Frank were caught at the office Saturday. I don't know who said it, Miss Lucile (Mrs. Frank) and Mr. and Mrs. Selig and Mr. Frank were standing there talking, after dinner when they said it; I understood them to say it was a Jew girl.

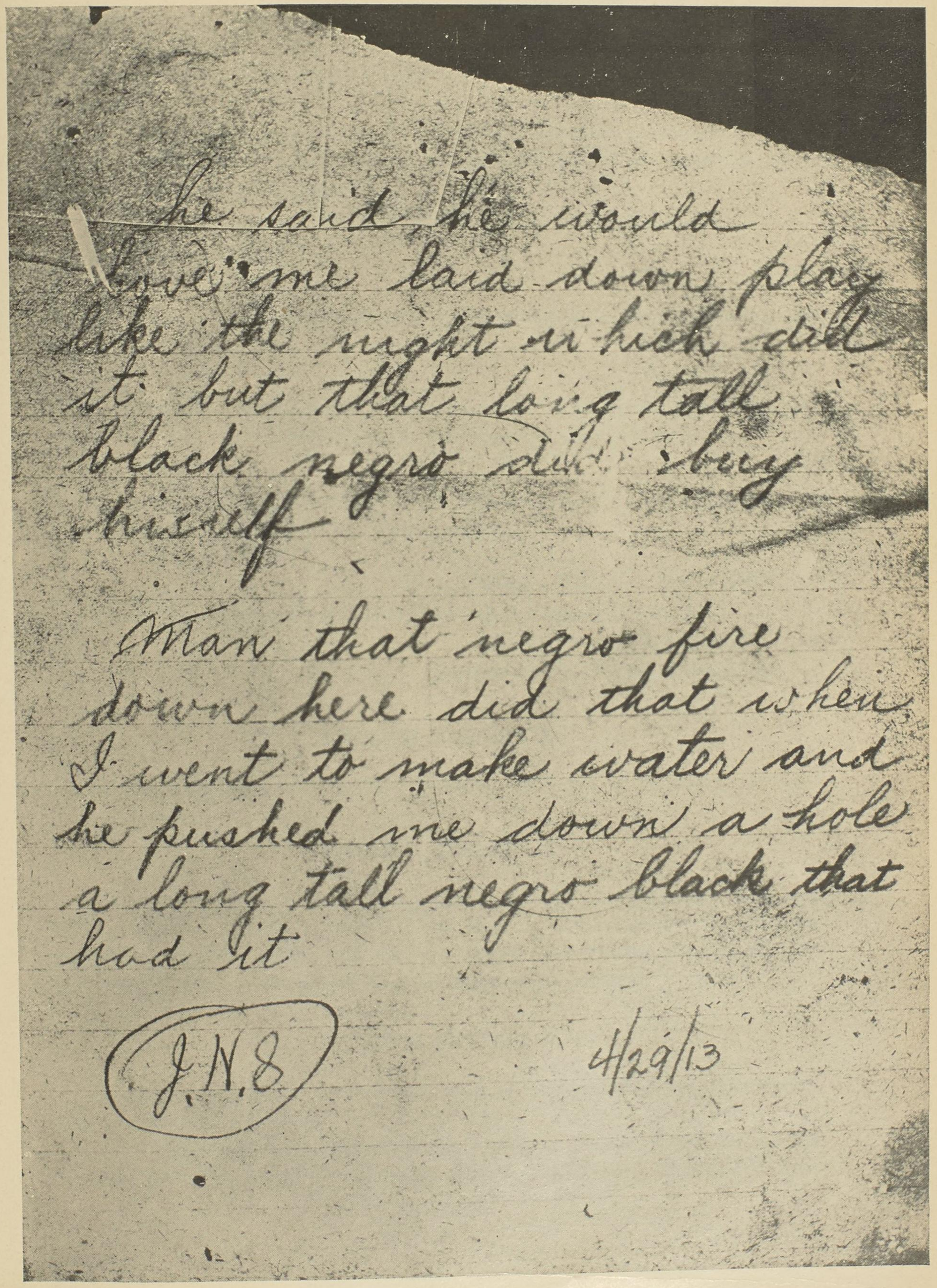
"On Tuesday, Mr. Frank says to me, 'It is mighty bad Minola, I might have to go to jail about this girl, and I don't know anything about it.'

"Sunday, Miss Lucile said to Mrs. Selig that Mr. Frank didn't rest so good Saturday night; she said he was drunk and wouldn't let her sleep with him, and she said she slept on the floor on the rug by the bed because Mr. Frank was drinking. Miss Lucile said Sunday that Mr. Frank told her Saturday night that he was in trouble, and that he didn't know the reason why he would murder, and he told his wife to get his pistol and let him kill himself. I heard Miss Lucile say that to Mrs. Selig, and it got away with Mrs. Selig mighty bad; she didn't know what to think. I haven't heard Miss Lucile say whether she believed it or not. I don't know why Mrs. Frank didn't come to see her husband, but it was a pretty good while before she would come to see him, maybe two weeks. She would tell me, 'Wasn't it mighty bad that he was locked up,' she would say, 'Minola, I don't know what I am going to do.'

"When I left home to go to the solicitor general's office, they told me to mind how I talked. They pay me $3.50 a week, but last week they paid me $4.00, and one week she paid me $6.50. Up to the time of the murder I was getting $3.50 a week and the week right after the murder I don't remember how much she paid me, and the next week they paid me $3.50, and the next week they paid me $6.50, and the next week they paid me $4.00 and the next week they paid me $4.00. One week, I don't remember which one, Mrs.

STATE'S EXHIBIT K.

Specimen of Frank's handwriting made by Frank for the detectives at the police station.


he said he would
love me laid down play
like the night or kick dill
it but that long tall
black negro did buy
himself

Man that negro fire
down here did that when
I went to make water and
he pushed me down a hole
a long tall negro black that
had it

J.N.8

4/29/13

Selig gave me $5, but it wasn't for my work, and they didn't tell me what it was for, she just said, 'Here is $5, Minola.' I understood that it was a tip for me to keep quiet. They would tell me to mind how I talked and Miss Lucile gave me a hat.''

Q. ''Is that the reason you didn't tell the solicitor yesterday all about this, that Miss Lucile and the others had told you not to say anything about what happened at home there?''

A. ''Yes, sir.''

Q. ''Is that true?''

A. ''Yes, sir.''

Q. ''And that's the reason you would rather have been locked up last night than tell?''

A. ''Yes, sir.''

Q. ''Has Mr. Pickett or Mr. Cravens or Mr. Campbell or myself influenced you in any way or threatened you in any way to make this statement?''

A. ''No, sir.''

Q. ''You make it of your own free will and accord in their presence and in the presence of Mr. Gordon, your attorney?''

A. ''Yes, sir.''

(Signed) MINOLA McKNIGHT.

Sworn to and subscribed before me, this 3rd day of June, 1913.

(Signed) G. C. FEBRUARY,
Notary public, Fulton County, Ga.

STATE'S EXHIBIT L.

A small whip handle found by detective McWorth at the pencil factory.

STATE'S EXHIBIT M.

Clothes worn by Mary Phagan consisting of hat, hair ribbons (2), dress, corset with hose supporters attached, one broken, corset cover, knit undervest, underskirt, drawers (right leg torn and soiled with blood), pair of silk garters, pair of hose, pair of low shoes, handkerchief, parasol.

STATE'S EXHIBIT N.

Copy of the Minutes of the State Board of Health, found on pages 144-145 thereof, reading as follows:

''The President then addressed the Board at length on his reasons for thinking that the Secretary should be requested to resign, the subjects dealt

with being too enormous and too lengthy to be included here in their entirety. After the President's address, the Board adjourned and reassembled again at four o'clock in the afternoon, at which time Dr. Harris's side of the controversy was heard.

"The Secretary not having been present at what transpired following this was not in a position to take note as to the proceeding, but was informed by members on adjournment that it was their wish that he should still continue as Secretary and Director of the laboratories.

"The President then made a short statement in support of his protest against the Secretary, and reiterated some of the charges made at the previous meeting, and in addition, made objection against the Secretary's action in sending out antitoxin No. 64, which had been shown by tests made in Washington to be of less potency than it was originally labeled, and also condemning the Secretary for replacing Dr. Paullin and personally taking up the investigation of the malarial epidemic around the pond of the Central Georgia Power Company. The President then stated that he would publish the charges against the Secretary if the Board did not take such action regarding them as he thought right and proper. At the conclusion of the President's address, a talk was made by Dr. Doughty, in which he took exception to the former's attitude, and insisted that every member of the board wished to do what was best for the State Board of Health and the people of Georgia, and that every one connected with the Board of Health should be willing to bow to the decision of this body. He deprecated strongly the idea of giving to the press charges, the publication of which could do no good, and which could only result in harm.

"On the President and Secretary being recalled an hour later the President pro tem, Dr. Benedict, read the following resolution, which had been unanimously adopted by the Board on motion of Dr. Harbin, seconded by Dr. Brown, the resolution having been drawn by a committee appointed by the Board, consisting of Drs. Benedict, Taylor and Doughty.

" 'That the committee appointed to frame a resolution expressing the opinion of the Board with regard to the charges preferred against the Secretary by the President of the Board in a report to the Governor, and upon which they are called upon to act, beg to report as follows:

" 'Resolved, That the members of the Board present, after carefully considering the charges and all evidence in its possession, unanimously agree that while there have been certain slight irregularities in the conduct of some departments of the laboratories of the State Board of Health, which should be corrected, these irregularities have not been so important in character or result as to call for or warrant the discontinuance of Dr. Harris as Secretary and Director of laboratories as demanded by the President. The Board further directs that a copy of this resolution be transmitted to the Governor.' "

STATE'S EXHIBIT O.

Telegram sent by Leo M. Frank:

"Atlanta, Ga., April 28, 1913.

"Mr. Adolph Montag,

Care Imperial Hotel, New York.

"You may have read in Atlanta papers of factory girl found dead Sunday morning in cellar of pencil factory. Police will eventually solve it. Assure my uncle I am all right in case he asks. Our company has case well in hand.

LEO M. FRANK."

STATE'S EXHIBIT P.

Time slip punched for Solicitor Dorsey by L. T. Kendrick:

1	5.01
2	5.30
3	6.00
4	6.29
5	6.58
6	7.38
7	8.01
8	8.29
9	9.00
10	9.30
11	10.00
12	10.30
13	**10.58**
14	
15	11.59
16	12.30
17	12.59
18	1.29
19	2.00
20	2.31
21	3.00
22	3.30
23	3.59
24	4.30
25	5.00
26	
27	
28	
29	
30	

STATE'S EXHIBIT Q.

Miss Hattie Hall's testimony before coroner's inquest, as follows:

"He (Mr. Frank) came to Montag's before I went to his office. I went to his office after he went back, somewhere between 10:30 and 11. I didn't notice the clock. As to whether I got any financial sheet on Monday, or not, I remember the previous Saturday I was at the pencil factory and I helped him make up the financial sheet. I filled in part of it. I suppose by that he must have got it up. I transferred some of the things to that sheet. Mr. Frank made up most of the work and I transferred some of the things to that sheet. I really don't remember whether it was morning or afternoon. It was morning. I don't work on Saturday afternoons. I don't remember that I was in the inner office with him at any time except when I was taking the letters. He was pretty quiet in there. I suppose he was at work."

STATE'S EXHIBIT R.

Accident report to the Insurance Company relative to Duffy's injury. Claim Division, Branch Office, The Travelers Insurance Company, 608-609 Fourth National Bank Building, Atlanta, Ga.

Immediate Report of Accident.

Employee of National Pencil Company.
Address, 37-41 S. Forsyth St. City, Atlanta. State, Georgia.
Date and hour of accident, Oct. 4th, 1912, 9:30 m.
Date of this report, Oct. 4th, 1912.

Injured Person	Name, J. E. Duffy. Address, 237 E. Fair St. Age, 21. Occupation, Running eyelet machine. Weekly wages, $6.60. Married or Single? Married. General duties, Running machine.
The Machine, Appliance, or Thing Immediately Causing Accident	What was it? A piece of brass on machine. In whose control at the time? His own self. Was it sound and in good working order? Yes.
Place of Accident	Room or Dept. No. 18A. No. Street City or town
Contributing Causes	Carelessness of injured person? No. Violation or negligence of fellow workman? No. Rules? No.
The Accident	Description. Said party was putting a roll of brass on his machine. This brass is very sharp, and same cut into flesh, nearly to the bone. Name and addresses of witnesses: L. A. Irwin, foreman; Charlie Lee, machinist.

The Injury { Nature and extent? Very painful cut to the bone, not serious if this brass does not cause poison to set in.
Was surgical aid rendered? Yes. When? At once.
By whom? Dr. Hancock. Where? Atlanta Hospital.

Notice received by employer 10-4-12.

H. G. SCHIFF, Employer.

STATE'S EXHIBIT S.

Portion of the affidavit made by Lemmie Quinn for Solicitor Dorsey as follows:

"The doors that lead up to the back stairs, after work hours are locked, but this door at the back of my department, the lock had been broken off and we placed a bar across it. The idea of that was to keep employees from the fourth floor going down from that department and ringing out and getting their money before it was ready. Customarily it was closed. That was the purpose. There is no exit from the office floor to the street floor, except the front, there is a stairway leading from the office floor to the floor above. The back stairway is ordinarily closed with that bar, which makes it impossible for anybody to come from the upstairs down to the office floor. A man on the office floor could lift the bar and walk out, but I should not think that a man could come down to the office floor from above at all. . .

"I went uptown when I left home between 12 and 12:20. I got to the pool room about 12:30. . . He (Frank) said he didn't know that he would mention it, but he would mention it to his lawyers and see if they thought it was favorable to mention it. That must have been Wednesday of last week."

STATE'S EXHIBIT T.

Court papers with reference to the police records of Jim Conley, being seven in number.

Jas. Connally, Disorderly Conduct, fined $1.75 7/22/1904—Paid
Jas. Connally, same, fined $15.75, 10/15/07—Paid
Jim Connally, same, fined $1.75, 7/18/05 G. G. B.
James Connally, same, fined $10.75, 12/11/1907, G. G. B.
James Connally, same, fined $3.75, 11/14/1906—Paid
Jimmie Connally, same, fined $3.75, 3/5/1906 Paid
James Connally, same, sentenced 30 days 9/10/1912

STATE'S EXHIBIT U.

Pay envelope found by Barrett under his machine on the second floor of the factory. Ordinary pay envelope used by factory officers in paying off employees.

STATE'S EXHIBIT V.

Portion of the testimony of Emil Selig before coroner's inquest as follows:

"As to who else was present, my wife and his wife. They went to the opera before, probably, dinner was over, before he and I left. I stayed in the house. There was no one else there when he got there except me and my wife and him and his wife. The servant was there also. I am speaking about dinner time. I laid down a little while after dinner. I am sure about that. It was directly after dinner was over. Mr. Frank was in the hall. I think he laid down himself. My room is upstairs over the dining room. The telephone is in the dining room. Mr. Frank stayed quite a little while at dinner. I don't know exactly how long he stayed. No, he didn't leave before I got up. Yes, I took a nap. He came a little after one and we ate dinner and I laid down and took a considerable nap."

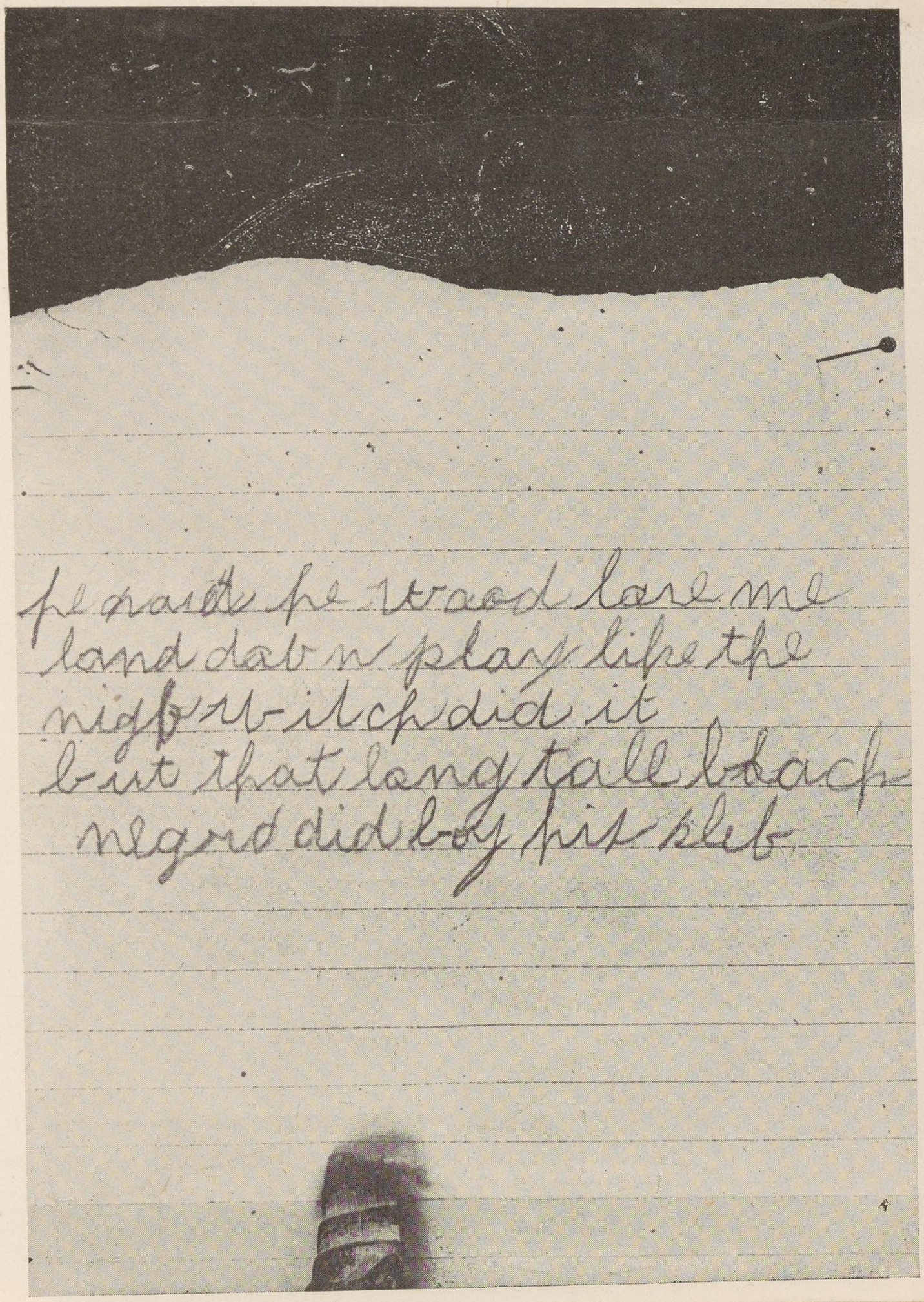
STATE'S EXHIBIT W.

Portion of testimony of Mrs. Josephine Selig before the coroner's inquest, as follows:

"As to what he (Mr. Frank) said about this affair, I don't know if he made any reference to it. She (Mrs. Frank) had told me. I don't remember that he said anything at all about this crime. He probably spoke of it in a general way. He is superintendent of the pencil factory. I think I would have remembered such a remark if he had made it. He said that there was a little girl found dead in the pencil factory that day. I didn't ask what her name was. I don't know that I asked any question at all, because I never really thought that it had any bearing on anything that I was interested in. It was not of interest to me. Naturally he would be concerned about it. I think he did seem unconcerned about it. I don't think he seemed to attach any great importance to it. I don't think he had anything to say about getting anybody to see what was the matter, or see who did it. I don't know what was the occasion of the first remark that Mr. Frank made about the thing. I suppose he had been there only a few minutes. Yes, he spoke about it before dinner. He mentioned the fact that a woman had been found down there. He mentioned that just casually. He didn't remark about the youth of the child or about the brutality of the crime, or describe any of the wounds, or wonder who was suspected, or give any theory as to how it happened. I don't think he expressed any anxiety or curiosity, or advance any theory as to how the thing had happened. He read the paper. There was no article about that in the paper. I can not say that he dwelt on any article. Yes, he read the paper just as steadily and studiously as the night before. I don't think he made any difference at all. He did not seem to be a bit impressed on account of the thing having happened in the pencil factory."

STATE'S EXHIBIT Y.

Note found by policemen in sawdust beside body of Mary Phagan, written om white paper.



(He said he would love me, laid down play like the night witch did it but that long tall black negro did boy hisself.

STATE'S EXHIBIT Y.

Note found by policemen in sawdust beside body of Mary Phagan. Written on white paper.

Reading of note on opposite page with errors uncorrected:

"Mam that negro hire down here did this i went to make water and he push me down that hole a long tall negro black that hoo it wase long sleam tall negro I wright while play with me"

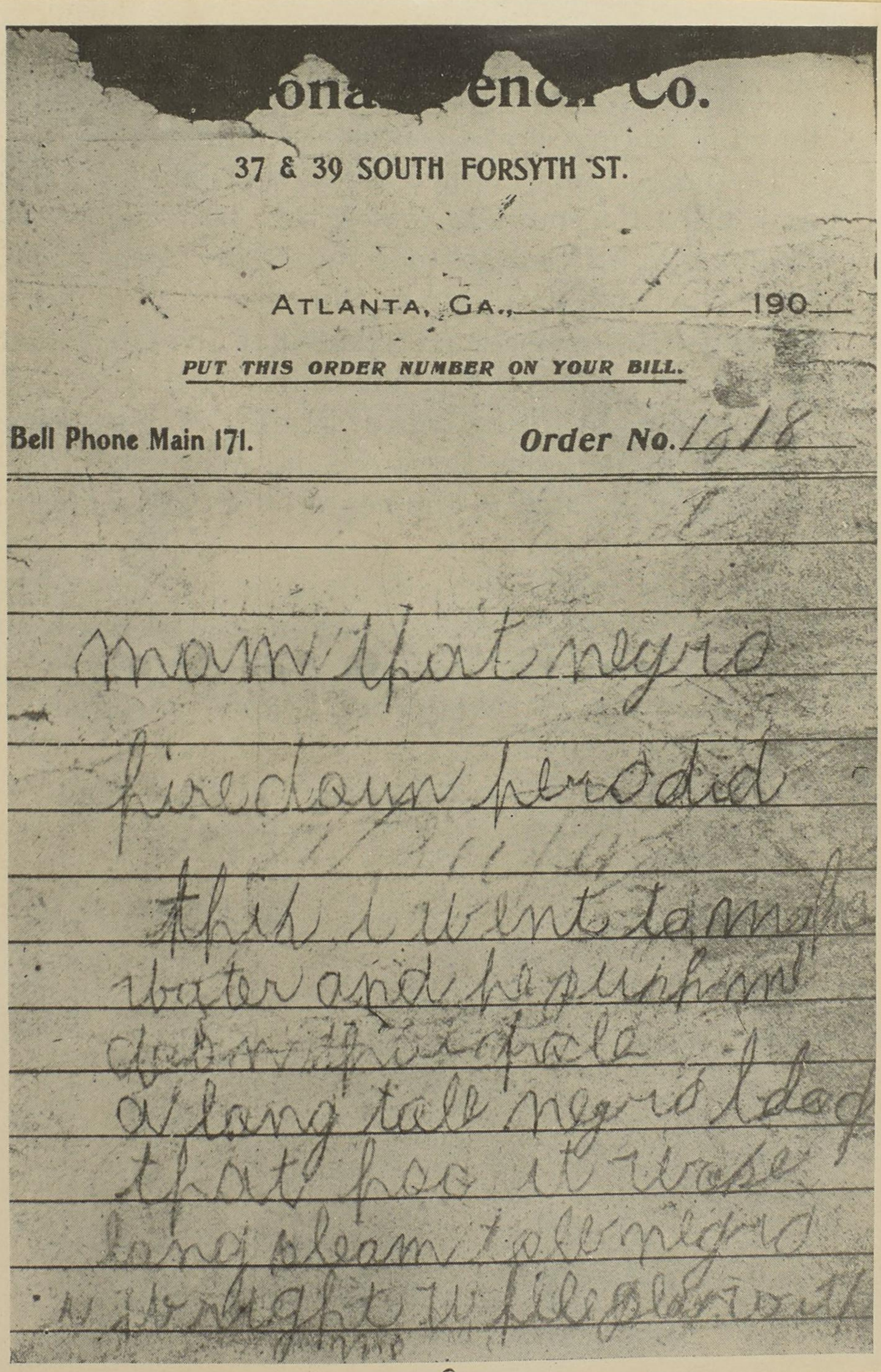
Reading with errors corrected:

"Mama: That negro hired down here did this. I went to make water and he pushed me down that hole, a long tall negro, black, that who it was, long slim tall negro. I write while play with me."*

*The purport of the words "I write while play with me" was probably this: Realizing dimly that the question would arise how the girl mortally injured or dead could have done any writing, or how he, the murderer, standing over her and watching every movement, came to permit her to write notes incriminating himself, this was intended as an explanation. In other words, the reader of the notes was expected to believe that she wrote them without the murderer seeing her do it just as steadily and studiously as the night before. I don't think he made any mistake in this account of the writing did it but that long tall black negro did boy himself. (The sic) he would love me, laid down play like the night

STATE'S EXHIBIT Z.

Note found by policemen in sawdust by side of the body of Mary Phagan, written on yellow paper.



...ona... ...enc... Co.

37 & 39 SOUTH FORSYTH ST.

ATLANTA, GA., _____ 190__

PUT THIS ORDER NUMBER ON YOUR BILL.

Bell Phone Main 171. Order No. 118

mam that negro
fire down here did
this when i went to
water and he push me
down a long tall negro black
that did it right while play with me

137
138 (Mam that negro fire down here did this when i went to make water and he push me down a hole a long tall negro black that did (had) it. i right while play with me.)

vealed. On the pages following and opposite the photographs, is given, for the first time, what are believed to be correct and complete readings.

The negro Conley, when arrested on May 1st, five days after the murder, denied that he could write. He maintained this attitude until May 18th, when, confronted with the proof, he admitted he could write. On May 24th, he made an affidavit to the effect that he had written the notes, but claimed that they had been dictated to him by Leo M. Frank. The supreme question in the case, therefore, is: Were they conceived and dictated to the negro by Frank, or were they not?

Speaking for himself, the undersigned must say that after a close study of these notes, he has been unable to detect anything indicating that they were dictated by a white man, or any trace of a white man in them.

The purpose of this pamphlet is to place the question before the public, and give an opportunity for the study of these notes.

HENRY A. ALEXANDER.

DEFENDANT'S EXHIBIT 1.

Time slip, dated April 26, taken out of clock by Frank.

101 601
102 632
103 700
104 732
105 800
106 831
107 906
108 932
109 1029
110 1104
111 1200
112 107
113 135
114 203
115 301
116 330
117 .....
118 .....
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132 .....
133 .....(Erasure made here)
134 .....
135 .....
136 .....
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138 .....

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143 .....
144 .....
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199 .....
200 .....

Date April 28, 1913.

Solicitor Dorsey stated in open court that he had made the erasure noted on this time slip, supposing it to have been put there by the detectives, the words erased being "Taken out 8:26 a. m."

DEFENDANT'S EXHIBIT 3.

Data sheet, being part of financial sheet.

		PRODUCTIONS: WEEK ENDING 4/24/13	
Gross Production	2765½		
Net Production	2719½	Lead deliveries	
Repacked good	10	940/2- 1045 -852/7- 964 940/3- 260 852/6- 794	
Repacked cheap	36	930/2- 724	
Value repacked	$70.00	Slats delivered, Gr.:	
Rubber inserted	720	Good	
Rubber cheap	667½	Cheap	
Rubber good	706½	Jobs Gr.	791
Lead good	747	Jobs value	386.75
Lead cheap	1955	Jobs average	.50
Lead large	1	Payroll, Forsyth St	1,060.05
Lead copy	16½	Payroll, Bell St.	114.75
Boxes	3771	Payroll, Mch. Shop	70.00
Assortment boxes	279	Shipments Gr.	4374
Skeletons	642	Shipments	$5,438.78
Tips delivered good	512	Orders received Gr.	1904
Tips delivered cheap	830—1342	Orders received	$3,320.31
Protectors, ends	½		
Wrappers	2535		
Cartons	88		

DEFENDANT'S EXHIBIT 2.
Financial sheet of April 24, 1913, made out by Leo M. Frank.

Forsyth St Plant

FINANCIAL REPORT
NATIONAL PENCIL COMPANY
ATLANTA, GA.

Week Ending Apr 24 1913

Compiled by L M F

EXPENDITURES

EXPENSE

LABOR				
Direct	897	55		
Indirect	155	00	1052	55
BURDEN				
Rent	65	65		
Light–Heat–Power–Water	85	00		
Insurance	50	00		
Sales Department	150	00	350	65
Repair Sundries			150	00
~~Investment~~ Mach Shop			70	00
			1623	20

MATERIAL—COSTS

Basis—Gross 2765½ Net 2719½

Slats 2719½ Gr. at 22 cts			598	29
Rubber				
720 Gr. at 6½ cts	46	80		
667½ " " 9 "	60	07		
706½ " " 14 "	98	91	205	78
Tips				
1374 Gr. at 10 cts. Nail	137	40		
½ " " 12 " Metal ends		06	137	46
Lead				
747 Gr. at 15 cts	112	05		
1955 " " 10 "	195	50		
1 " " 25 " 950/1		25		
16½ " " 60 " Copy	9	90	317	70
Supplies at 5 cts. per gr.			135	97
Boxes 3771 at ½ cts.			75	42
Asst. Boxes 279 at 10 cts.			27	90
Wrappers 2535 at 1 cts. per gr.			25	35
Skeletons 642 at ½ cts.			12	84
Cartons 88@ .18 cts			15	84
			1552	55
			1623	20
Total Expenditures			3175	75

Pay Roll Bell Str 164.75
Old
940½ - 1045 gr
934½ - 224 "
940⅓ - 240 "
951/7 - 964 "
852/6 - 194 "

Slats Old
Good
Check
Caps Old 1342 gr

VALUE OF PRODUCT—PENCILS PACKED

Remarks	Amount—Gross	KIND	@ Per Gross	PRICE	
29%	441	Jobs av	.50/10	396	75
	86	10%	.60	51	60
	451	20 ex	.80	363	20
	59	40 ex	.85	50	15
	5	120 ex gil	1.30	6	50
	53½	35 x	1.25	66	88
	372	55 x	1.40	520	80
	104	155 x gil	1.50	156	00
	105	90 x	2.25	236	25
	140½ - 2½	210 gil - 210 x	2.50	357	50
	52½	100 x gil	2.00	105	00
	15	Card Cut #15	2.25	33	75
	12½	430 x	2.50	31	25
	8	T type	3.60	28	80
	25 - 100	A110 - A110 gil	1.50	187	50
Stamps 710 Short 700	6	Card #11	1.80	10	80
	8½	" 1920 x	2.50	21	25
Rubber Bands	159	950 x	2.50	397	50
	44	470 x	3.00	132	00
	87½	510 x gil	2.50	218	75
	½	725 x	3.25	1	63
	6	210 x No Tip	2.00	12	00
	38½	420 x gil flat	2.75	105	88
	28½	630 x gil	2.20	62	70
					3584 44
		Less Refuse		70	00
				3484	44
		Less 12%		418	13
		Net Value		3066	31
3175.75					
3066.31					
109.44	Deficit				

REMARKS

Shipments { $ 5438.78 / 4374 gr

DEFENDANT'S EXHIBIT NO. 3—(Continued)

Average of Jobs (part of data sheet).

		@	
180-	095-	.40	$72.00
1-	114-	1.10	1.10
16	90	.70	11.20
44	111	.70	30.80
169	7x	.50	84.50
33	090	.40	13.20
29	006-	.65	18.85
178	3's	.35	72.30
13	75	1.00	13.00
38	70	.90	34.20
87	504	.50	43.50
3	112	.70	2.10
991			396.75

50-;/10c av.

DEFENDANT'S EXHIBIT 4a.

Packing room reports, being part of data for financial.

NATIONAL PENCIL CO.
Atlanta, Ga.
Daily Report.

Monday

Dept.	Packing	Dept. No. 13
264-55	Oxford	46
383-37	Trumps	52½
385-35	Trumps	1
No. 1	Ass't	6
		105½
939-20	G Wash	121
688-40	J Monroe	7
		128
315-10	P Cedar	16
	Med	105½
	Good	136½
		386

Date 4/21/13 Signed EULA

NATIONAL PENCIL CO.
Atlanta, Ga.
Daily Report.

Tuesday

Dept.	Packing	Dept. No. 13
86-510	Packard No. 2	46
97-420	Surety No. 2	29
271-950	Genius	21
199-910	N Emblem	18
116-210	Bowers Prog	5
		119
264-55	Oxford	83
150	Mystic N. T.	1
155	Mystic N. T.	4
		88

Date 4/22/13 Signed EULA

DEFENDANT'S EXHIBIT 4a—(Cont'd)

NATIONAL PENCIL CO.
Atlanta, Ga.
Daily Report.

Wednesday

Dept.	Packing	Dept. No. 13
86-510	Packard No. 2	5
274-T.O.	Bell Lee Drug Co.	8
199-910	N. Emblem	24
271-950	Genius	25
90-210	Cadillac No. 2	31½
71-630	Worth 2752	28½
		122

Date 4/23/13 Signed EULA

NATIONAL PENCIL CO.
Atlanta, Ga.
Daily Report.

Wednesday

Dept.	Packing	Dept. No. 13
264-55	Oxford	98½
120	Broadway	5
34-45	Trumps	16
No. 110	Asst Smith Paper	25
		144
	Cr	
939-20	G. Wash	78
688-40	J. Monroe	3
		81
		144
		122
		347

Date 4/23/13 Signed EULA

DEFENDANT'S EXHIBIT 4aa.

Repack—

Apr. 25, 1913—Repack from Apr. 17, to Apr. 24

18	gross	22.50	-35x
18	gross	22.50	37x
10	gross	25.00	930x O. K. (Signed) EULA
46		70.00	

DEFENDANT'S EXHIBIT 4a—(Continued).

NATIONAL PENCIL CO.
Atlanta, Ga.
Daily Report.

Friday.

Dept.	Packing	Dept. No. 13
725	N. Copying	½
91-210	Cadillac No. 3	35
87-510	Packard No. 3	2
199-910	Nat. Emblem	60½
62-660	University School	52½
117-450	Luxury No. 2 N. T.	1
326-210	Khedive No. 2	2½
No. 1920	Ass't Nat. Flyer	2½
		156½

Date 4/18/13 Signed EULA

NATIONAL PENCIL CO.
Atlanta, Ga.
Daily Report.

Saturday

Dept.	Packing	Dept. No. 13
271-950	Genius	9½
91-210	Cadillac No. 3	3½
199-910	N. Emblem	3
116-210	Bowers Prog No. 2	6
760	Thesis Writing No. 2	1
		23
	Good	
264-55	Oxford	66
378-155	Mystic	99½
		165½
939-20	G. Wash.	69
315-10	P. Cedar	53
	Good	23
		310½

Date 4/19/13 Signed EULA

NATIONAL PENCIL CO.
Atlanta, Ga.
Daily Report.

Monday

Dept.	Packing	Dept. No. 13
397-430	Sitting Bull	12½
86-510	Packard No. 2	34½
91-210	Cadillac No. 3	6
116-210	Bowers Prog	29½
120-210	Khedive No. 2 N. T.	6
271-950	Genius	32½
97-420	Surety No. 2	9½
No. 1920	Ass't N. Flyer	6
		136½

Date 4/21/13 Signed EULA

NATIONAL PENCIL CO.
Atlanta, Ga.
Daily Report.

Tuesday

Dept.	Packing	Dept. No. 13
939-20	G. Wash	94
688-40	J. Monroe	11
		105
	R. I.	
	Med.	89
	Good	119
		313

Date 4/21/13 Signed EULA

DEFENDANT'S EXHIBIT 4a—(Cont'd)

NATIONAL PENCIL CO.
Atlanta, Ga.
Daily Report.

Thursday.

Dept. Packing	Dept. No. 13
90-210 Cadillac No. 2	6½
91-210 Cadillac No. 3	2
116-210 Bowers Prog	15½
271-950 Genius	71
274-470 Thoroughbred	43
No. 15 Ass't Princely Cards	15
	153
34-45 Trumps	36
Ass't No. 48 S. Bargain Hse Sp	50
Ass't No. 53 Southwestern No. 115	50
	136
Date 4/24/13	Signed EULA

NATIONAL PENCIL CO.
Atlanta, Ga.
Daily Report.

Thursday.

Dept. Packing	Dept. No. 13
939-20 G. Wash.	34
688-40 J. Monroe	20
	54
R. I.	54
Med.	136
Good	153
	343
Date 4/24/13	Signed EULA

DEFENDANT'S EXHIBIT 4b.

Job department reports, being part of data for financial sheet.

NATIONAL PENCIL CO.
Atlanta, Ga.
Daily Report.

Dept. Job.	Dept. No. 22
504 Pol sec	59
090 " "	20
506 " "	10
3's " 3's	12
90 " sec	10
095 " 3's	133
7x " sec	30
	274
Date 4/21/13	Signed FANNIE A.

NATIONAL PENCIL CO.
Atlanta, Ga.
Daily Report.

Dept. Job.	Dept. No. 22
504 Pol sec	12
3's " 3's	69
74 " sec	111
111 " "	25
112 " "	3
90 " "	3
506 " "	8
70 " "	16
75 " "	3
	250
Date 4/23/13	Signed F. L. A.

DEFENDANT'S EXHIBIT 4b—(Cont'd)

NATIONAL PENCIL CO.
Atlanta, Ga.
Daily Report.

Dept. Job.		Dept. No. 22
111	Pol	see
74	"	"
090	"	"
506	"	"
3's	"	3's
75	"	see
70	"	"
504	"	"
		216

Date 4/24/13 Signed FANNIE A

NATIONAL PENCIL CO.
Atlanta, Ga.
Daily Report.

Dept. Job.		Dept. No. 22
90	Pol	see
114	"	"
095	"	3's
		51
		216
		267

Date 4/24/13 Signed FANNIE A

DEFENDANT'S EXHIBIT 4c.

Daily report of lead deliveries from lead plant, part of data for financial sheet.

1	Box	3992	910/No. 2	127 Gross
2	"	3993	"	247 "
2	"	3994	-	254 "
2	"	3995	-	254 "
2	"	3996	2	163
9	Box			1045 gross
3	Box	3863	940/No. 3	260 "
2	"	3910	940/No. 3	197
3	"	3911		335
3	"	3912		292
19	Box			2192 Gross
2	Box	3976	852/7	260 "
4	"	3978	852/7	347
4	"	3979	"	347
29	Box			3787 Gross
4	Box	3980	852/7	352 "
4	"	3981		352
				704 gross

(Signed) G. WEINKAUF.
Apr/21, 1913

DEFENDANT'S EXHIBIT 4d.

Report of tip deliveries from tip plant, being part of data for financial sheet.

Weekly report of Metal Dept., No. 18, April 24, 1913.

Large Eyelet Mach.	404	Tips delivered—	
Small Eyelet Mach.	440	No. 6	830
Trimming Mach.	644	No. 10	448
Knurling Mach.	835	No. 12—Re-dipped	35
		No. 17	64
			1,377

(Signed) L. A. QUINN.

DEFENDANT'S EXHIBIT 5.

Average (of orders) sheet, being a complete record (beginning with the week ending Jan. 16, 1913) of the number of orders received each week, classified as to price under different headings, said number being totaled at the end of each week and the average price ascertained. The following is a record only of orders for the factory month of April, 1913:

WEEK ENDING 4/3/13.

	60 cts.	R. I.	100 thru 140	150 thru 195	200 thru 295	300 and over
Friday 28	159	413	307	117	453	105½
Saturday 29	3	28	30	2	6	5
Monday 31	5	258	81	7½	126	35
Tuesday 1	10	17	47	14	78	15½
Wednesday 2	12	165	132½	7	122	30½
Thursday 3	24	154	621	6½	70	15
Total gross	213	1035	1218½	154	855	206½
Price per gross	.60	.80	1.25	1.75	2.50	3.00
Total value	127.80	828.00	1,523.13	269.51	2,137.50	619.50

$5,505.43 3682 gr. 1.50 av.

DEFENDANT'S EXHIBIT 5—(Continued).

WEEK ENDING 4/10/13.

			100 thru 140	150 thru 195	200 thru 295	300 and over
	60 cts.	R. I.				
Friday 4	33	162	280	572	53	51½
Saturday 5	31	19	38½	12	47	16
Monday 7	106	101	188	118	154½	86
Tuesday 8	10	30	48	10	67	74
Wednesday 9	5	..	2	8	4	2
Thursday 10	15	156	232	28	90	67½
Total gross	200	468	788½	696	325½	286½
Price per gross	.60	.80	1.25	1.75	2.50	3.00
Total value	120.00	374.40	985.62	128.00	833.75	889.50
	$4,428.27		2774½		1.60 av.	

WEEK ENDING 4/17/13.

			100 thru 140	150 thru 195	200 thru 295	300 and over
	60 cts.	R. I.				
Friday 11	..	..	..	..	..	..
Saturday 12	..	..	..	..	250	5
Monday 14	6	104	9	5	26	10
Tuesday 15	5	11	30	8	26	1
Wednesday 16	10	10	7	4	14	6
Thursday 17	55	173	276	217½	365	198½
Total gross	76	298	322	234½	681	220½
Price per gross	.60	.80	1.25	1.75	2.50	3.00
Total value	45.60	238.40	8,412.50	410.38	1,702.58	661.50
	1852 gr.		$3,460.88		$1.89 av.	

WEEK ENDING 4/24/13.

			100 thru 140	150 thru 195	200 thru 295	300 and over
	60 cts.	R. I.				
Friday 18	9	103	65	9½	122	95
Saturday 19	..	26	81	13	52½	16
Monday 21	53	118	79½	20	83	17
Tuesday 22	28	205	115	101	9½	153½
Wednesday 23	15	5	28	5	16½	..
Thursday 24	10	29	11	..	110	100
Total gross	115	486	379½	148½	393½	381½
Price per gross	.60	.80	1.25	1.75	2.50	3.00
Total value	69.00	388.80	474.38	259.88	983.75	1,144.50
	$3,320.31		1904 gr.		$1.74 av.	

DEFENDANT'S EXHIBIT 6.

Value of shipments for week ending April 24, being part of data for financial sheet.

Shipments Week Ending 4/24/13

Apr.	18	400.75
"	19	482.00
"	21	1146.06
"	22	1457.95
"	23	706.63
"	24	1245.57
		5438.78

18th	11.35
	38.37
	27.00
	23.40
	40.00
	124.80
	14.20
	38.82
	23.39
	17.50
	14.66
	27.00
19th	10.90
	8.90
	107.50
	14.86
	14.92
	73.04
	43.90
	21.25
	135.10
	51.63
21st	69.55
	24.34
	114.00
	29.39
	17.84
	15.07
	75.99
	13.70
	740.55
	33.25
	12.38
22nd	12.00
	16.67
	10.00
	13.70
	138.30
	1267.28

DEFENDANT'S EXHIBIT 7.

Three pencil sheets (the last two lines of which are in Frank's handwriting), part of data for financial sheet.

FACTORY RECORD

NATIONAL PENCIL COMPANY, Atlanta, Ga. — PENCIL STOCK — Week Ending April 17, 1913

	DATE	10 Ex	20 Ex	30 Ex	40 Ex	Jobs	135x	120x	130x	120 Ex SPL	35x 37x	45x 55x	140x	155 N Tip	150x N Tip	160x	170x	180x	1002	1003	910x	230x	500x	330x	630x	640x	210x	660x	220x	210x SPL	660x SPL	150x	155x SPL	260x SPL	920x	930x	620x	Princely Cords No. 225	TOTAL
PENCILS PACKED	April 11		204				28				14		46	13½													6½										
	12		32				65						64	40																							
	14		19		21		42					61	36												13		8										
	15		53										13								8				10½												
	16				35	x	3														22½				15				14								
	17	100	10		38	574		10			10		4		7½						16½								15½	45							
	TOTAL	100	318		94	734	138	10			24	61	163	53½	7½						47				38½		14½		29½	45							
PENCILS SHIPPED	April 18	17	58		18							25									60				2½				35	52½							
	19	53	69									66		99½							33								9½								
	21	16	121		7	274					53½	46																	35½								
	22		94		11							83½		4½	1						18								5								
	23		78		3					5		114½									24								31½								
	24		34		20	517						36																	24							15	
	TOTAL	86	454		59	791				5	53½	371		104	1						105				2½				140½	52½						15	
In Stock End Last Week																																					
Made This Week																																					
TOTAL																																					
Shipped This Week																																					
In Stock End This Week																																					

DEFENDANT'S EXHIBIT 7—Continued.

Three pencil sheets (the last two lines of which are in Frank's handwriting), part of data for financial sheet.

FACTORY RECORD

NATIONAL PENCIL COMPANY, Atlanta, Ga. PENCIL STOCK Week Ending April 17, 1913

	DATE	620x SPL	510x	430x SPL	431x	800x	240x	911x	260x	901x	902x	903x	904x	280x	280x SPL	Type	Asst. 110	#1	#2	#145	#105	#3	#115	#1900	#1910	#1920	#1640	#110 Sp	950x	270x	950x SPL	260x SPL	20th Century	Pan American	210x Gate City				TOTAL
PENCILS PACKED	April 11				4			36½				8½													42½									1½				
	12							4																										6½				
	14							8½																										8½				
	15				7			36½																		5	5											
	16				35			38																										2				
	17														14½		50							4		15	10											
	TOTAL				46			123½				8½			14½		50							4	42½	20	15							18½				
PENCILS SHIPPED	April 18																									2½											
	19																																9½				
	21				12½													6							6								32½				
	22																																21				
	23															8	25																25				
	24																											100					71				
	TOTAL				12½											8	25	6								8½		100					159				
In Stock End Last Week																																						
Made This Week																																						
TOTAL																																						
Shipped This Week																																						
In Stock End This Week																																						

DEFENDANT'S EXHIBIT 7—Continued.

Three pencil sheets (the last two lines of which are in Frank's handwriting), part of data for financial sheet.

FACTORY RECORD

NATIONAL PENCIL COMPANY, Atlanta, Ga. PENCIL STOCK Week Ending April 17, 1913

	DATE	3 Copy	Copy N P	740x	760x	770x	780x	790x	400x	400x SPL	410x	420x	420x SPL	440	450 N T	460	460x SPL	470x	480x	220x SPL	Show Cases	1000	1001	750x	Chatauqua	460x SPL Cedeco	WORTH 910-2753	WORTH 120x-1501	A B Uramus	270x SPL	510x SPL	WORTH 910x SPL	210x N Tip	420-3501 WORTH	725x Copy	Uramus N.T.	210x Wheeler N.T.	Surety Packed flat	WORTH 630x Spl-2752	TOTAL
PENCILS PACKED	April 11																		20																					425
	12				1														10							3															224½
	14	19														4½									24		6½	52												323
	15																								72				17½	43	29	19								479½
	16															22½														8	78½		56½	29						359
	17																													2	59½				25	29½				1040
	TOTAL	19														67			30						96	3	6½	52	17½	53	167	19	56½	29	25	29½				2851
PENCILS SHIPPED	April 18														1															2				½					274½
	19																																						310½
	21																													34½					6	9½		660
	22																													46						29		313
	23																													5							28½	347½
	24																43																						860
	TOTAL														1		43													87½				½	6	38½	28½	2765½
In Stock End Last Week																																							
Made This Week																																							
TOTAL																																							
Shipped This Week																																							
In Stock End This Week																																							

DEFENDANT'S EXHIBIT 7a.

Resume of the three sheets.

4-24-13 Production Wk. End	Fri. 18	Sat. 19	Mon. 21	Tues. 22	Wed. 23	Thur. 24
Cheap (10 Ex) ...	17	70	86	86	86	86
Rubber Inserted .	76	145	273	378	459	513
Jobs	..	...	274	274	274	791
116, 117 Jobs....	..	...	...	...	...	...
Medium	25	190½	295	385	529½	664½
Good	156½	179½	316	435	557	710
Totals	274½	585	1250	1558	1905½	2765½
Daily Totals	274½	310½	665	313	374½	860

DEFENDANT'S EXHIBIT 6—(Continued).

23rd	183.70
	13.04
	23.95
	29.45
	29.18
	28.80
	260.00
	20.00
	23.04
	18.49
	14.13
	30.00
	27.70
	5.13
24th	204.32
	644.40
	145.00
	63.33
	28.00
	27.75
	13.48
	119.29

DEFENDANT'S EXHIBIT 8.

Eight carbon copies of eight letters, all dated April 26, 1913, and addressed to

Schroder & Lombard Engraving Co., 18 Franklin St., N. Y.
Henry Diston & Sons, Philadelphia, Pa.
J. G. McCrory Co., 621 Broadway, N. Y.
Southern Bargain House, Richmond, Va.
American Zylacq Co., Inc., 8 Livingston St., Newark, N. J.
A. J. Sossner, 154 Duane St., N. Y.
The Pullman Co., Chicago, Ill.
Schroder & Lombard, 18 Franklin St., N. Y.

and signed "National Pencil Company, by ....., Supt." On each letter are the initials "LMF:HH."

Each letter acknowledges receipt of letter received from the firm addressed and whose names are set forth above (which original letters from said firms are attached to the respective carbon copy which it purports to answer), and have to do with matters of business connected with the National Pencil Company.

DEFENDANT'S EXHIBIT 9.

A large book containing all of the financial sheets of the National Pencil Company, beginning with the week ending November 25, 1909, and ending with the week ending April 24, 1913. Each of these sheets purport to cover the financial operations of the National Pencil Company for the respective week named thereon, and in form is identical with the sheet of April 24, 1913, set forth herein as "Defendant's Exhibit 2."

DEFENDANT'S EXHIBIT 10.

A small receipt book containing the following receipts:

April 19, 1913. Received of National Pencil Co. 15 cents—kerosene. (Signed) Nute Lee, F.

April 21, 1913. Received of National Pencil Co. 75 cents—type (Signed) A. Mann, F.

April 21, 1913. Received of National Pencil Co. two dollars—dray. (Signed) Truman McCrary.

April 21, 1913. Received of National Pencil Co. $2.50—cases. (Signed) John Glass.

April 21, 1913. Received of National Pencil Co. 35 cents—express, Warner. (Signed) So. Express Co., F.

April 21, 1913. Received of National Pencil Co. 50 cents—postage stamps. (Signed) A. Mann, F.

April 21, 1913. Received of National Pencil Co. 3 cents—parcel post. (Signed) A. Mann, F.

April 22, 1913. Received of National Pencil Co. $2.00, rent two weeks typewriter. (Signed) Underwood Typewriter Co., F.

April 22, 1913. Received of National Pencil Co. $1.25—cases. (Signed) Dan Reid, F.

April 22, 1913. Received of National Pencil Co. $1.70—dray. (Signed) Truman McCrary.

April 22, 1913. Received of National Pencil Co. 45 cents—supplies. (Signed) Mr. Schneegass.

April 22, 1913. Received of National Pencil Co. $3.50—cases. (Signed) John Glass, F.

April 23, 1913. Received of National Pencil Co. $1.75—cases. (Signed) Dan Reid, F.

April 23, 1913. Received of National Pencil Co. 85 cents—inv. 2-1-13. (Signed) King Hdw. Co., Green.

April 23, 1913. Received of National Pencil Co. $1.50—dray. (Signed) Truman McCrary.

April 24, 1913. Received of National Pencil Co. 50 cents—postage stamps. (Signed) A. Mann, F.

April 24, 1913. Received of National Pencil Co. $11.50—tinsmith job. (Signed) Paul Armbrust, R. F. D. No. 3, Atlanta, Ga.

DEFENDANT'S EXHIBIT 10—(Continued).

April 24, 1913. Received of National Pencil Co. 13 cents—parcel post. (Signed) A. Mann, F.

April 24, 1913. Received of National Pencil Co. 5 cents—thread. (Signed) A. Mann, F.

April 24, 1913. Received of National Pencil Co. $1.00—dray. (Signed) Truman McCrary.

April 25, 1913. Received of National Pencil Co. 10 cents—carfare. (Signed) A. Mann, F.

April 26, 1913. Received of National Pencil Co. $2.00—dray. (Signed) Truman McCrary.

April 26, 1913. Received of National Pencil Co. 75 cents—express. (Signed) So. Express Co., F.

April 26, 1913. Received of National Pencil Co. $4.00 time for office work. (Signed) Herbert Wright, F.

DEFENDANT'S EXHIBIT 11.

Comparison sheet, 1912-1913, being part of data for financial sheet:

Comparison 1912-13.

	Week Ending Apr. 24/13.		
(45 hrs.) 1912.			**1913**
Payroll	$ 1,036.15		$1,052.55
Machine Shop	47.75		70.00
Expense	1,584.55		1,623.20
Material Cost	1,271.46		1,552.55
Total Expenditures	2,856.01		3,175.75
Net Value Productions	2,431.22		3,066.31
Apparent Results—Deficit	424.79	Def.	109.44
Value shipments	3,323.22		5,438.78
	2,509 Gr.		4,374 Gr.
Productions: Net	2,132½		2,719½
Good	457½		700
Medium	829		629½
Cheap	546		599
Jobs	300		791
Per cent. Jobs	14%		29%

Remarks:

19120 55 hrs. work.

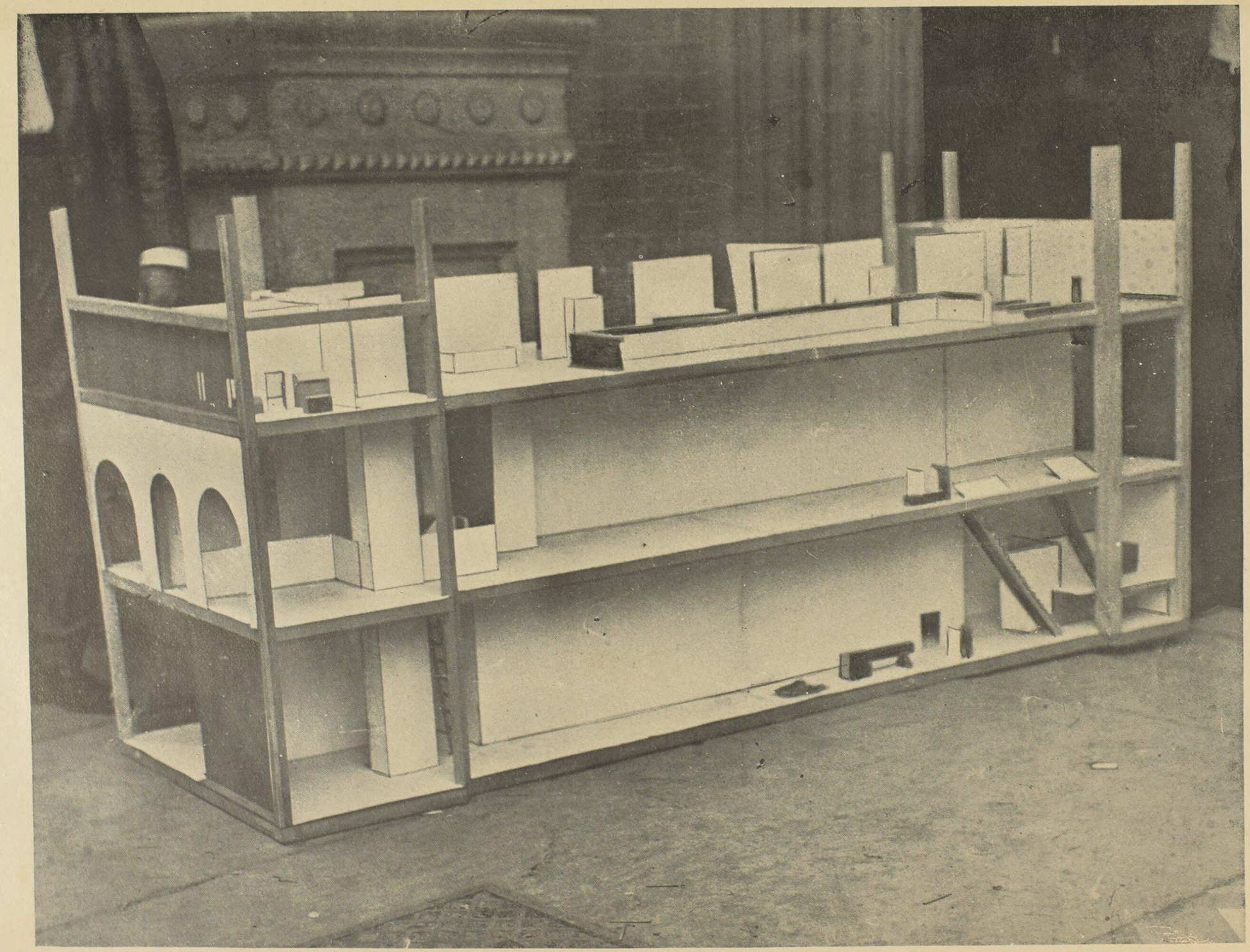
DEFENDANT'S EXHIBIT 12.

Page 56 of House Order Book of National Pencil Company — Page 57

Salesman	Ship to	Kind	Order No.	City-State	Date Rec'd	How ship	Shipped
7187—D. P.	F. W. W. Co. No. 57	Regular	4/24/13	St. Joe, Mo.	4/26/13	At once	4/28/13
7188—D. P.	F. W. W. Co. No. 68	Regular	4/23/13	Terre Haute, Ind.	4/26/13	At once	4/28/13
7189—D. P.	F. W. W. Co. No. 253	Regular	4/22/13	Logansport, Ind.	4/26/13	At once	4/28/13
7190—D. P.	F. W. W. Co. No. 585	Regular	4/22/13	DeKalb, Ill.	4/26/13	At once	4/28/13
7191—D. P.	F. W. W. Co. No. 25	Regular	4/24/13	Wilkesbarre, Pa.	4/26/13	At once	4/28/13
7192—D. P.	F. W. W. Co. No. 262	Regular	4/24/13	Saratoga Springs, N. Y.	4/26/13	At once	4/28/13
7193—Mail, U. S.	Soo 5 and 10c Store	Regular	C4355	Sault Ste. Marie, Mich.	4/26/13	At once	7/9/13
7194—H. G.	Beutell Bros. Co.	Regular	4/23/13	Dubuque, Iowa	4/26/13	At once	5/6/13
7195—Factory	Montag Bros.	Regular	4/26/13	Atlanta, Ga.	4/26/13	At once	6/9/13
7196—Jno. Lawrie	John Mangus Co.	Regular	134	Chicago, Ill	4/26/13	At once	4/28/13
7197—G. H.	R. E. Kindell Co.	Special	4/24/13	Cincinnati, Ohio	4/26/13	At once	

DEFENDANT'S EXHIBIT 13.

Model of the National Pencil Company made by T. H. Willett.



DEFENDANT'S EXHIBITS 14 TO 24, INCLUSIVE.

Eleven original orders addressed to the National Pencil Co., Atlanta, Ga., signed by the following firms:

F. W. Woolworth Co., Store No. 57, St. Joeseph, Mo.
F. W. Woolworth Co., Store No. 68, Terre Haute, Ind.
F. W. Woolworth Co., Store No. 253, Logansport, Ind.
F. W. Woolworth Co., Store No. 585, DeKalb, Ill.
F. W. Woolworth Co., Store No. 25, Wilkesbarre, Pa.
F. W. Woolworth Co., Store No. 262, Saratoga Springs, N. Y.
Soo 5 and 10 Cent Store, Sault Ste. Marie, Mich.
Beutell Bros. Co., Dubuque, Iowa.
Montag Bros., Atlanta, Ga.
John Magnus Co., Chicago, Ill.
R. E. Kindell & Co., Cincinnati, O.

Said orders request the National Pencil Company to ship to said respective firms, at once, certain merchandise (pencils) noted therein. Each of said orders describes the quantity of pencils desired, the style number and a complete description of the kind of pencils wanted, name, color, shape, etc. On each order respectively is stamped the National Pencil Company's number as follows: "House No. 7187; House No. 7188; House No. 7189; House No. 7190; House No. 7191; House No. 7192; House No. 7193; House No. 7194; House No. 7195; House No. 7196; House No. 7197; House No. 7198; House No. 7199." There is also stamped on each of said orders the following: "Acknowledged, April 26, 1913, by H. H.," and also "Shipped complete, April 28, 1913," with the exception of the order of R. E. Kindell & Company, House No. 7197, which is marked on the face of it "Cancelled June 17, 1913," the letter of R. E. Kindell & Company cancelling said order being attached thereto.

DEFENDANT'S EXHIBIT 25.

Requisition sheet in handwriting of Leo. M. Frank, as follows:

House No.
7187

Date April 26 1913

Salesman / Bill to D.P.

Order No. 4/24/13

NATIONAL PENCIL CO., ATLANTA, GA.

MANUFACTURERS

Ship to F.W.W.Co. No. 57 At 617 Felix Str.

Ship When at once St. Joseph,

Remarks: Mo.

Sales No.	Amount	Name or Remarks April 28, 1013				
45x	4	#4	4			
220x	1/2	#4	1/2			
280x	1/2	#4	1/2			
440x	1/2	#5	1/2			
720x	1/2	W.P.				
630x	1/2		1/2			
910	1/2		1/2			
902	1/2		1/2			
430	1/2		1/2			
240	1/2		1/2			
		O.K. HGS		Complete		
Date Complete Shipment		April 28,1913				
		Shipped Complete April 28,1913 2700				

DEFENDANT'S EXHIBIT 26.

Requisition sheet in handwriting of Leo. M. Frank, as follows:

House No.
7188

Date April 26,1913 191

Salesman } D.P.
Bill to }

Order No. 4/23/13

NATIONAL PENCIL CO., ATLANTA, GA.
MANUFACTURERS

Ship to F.W.W.Co. #68 At Terre Haute,

Ship When at once

Remarks: Ind.

Sales No.	Amount	Name or Remarks April 28, 1913
37	1	1
35	3	3
45	2	2
120	2	2
155	3	3
920	1	1
910	1	1
		Complete
		O.K. HGS
		Date Complete Shipment Apr.28,1913
		Shipped Complete Apr. 28,1913 2701

DEFENDANT'S EXHIBIT 27.

Requisition sheet in handwriting of Leo. M. Frank, as follows:

House No.
7189

Date April 26,1913 191

Salesman / Bill to } D.P.

Order No. 4/22/13

NATIONAL PENCIL CO., ATLANTA, GA.
MANUFACTURERS

Ship to F.W.W.CO. #25 At Logansport

Ship When At once

Remarks: c/o Penna Ry Ind.

Sales No.	Amount	Name or Remarks April 28, 1013	
10	4		4
37	1		1
35	1		1
20	2	30 Sub.Pls.	2
45	1		1
140	1		1
155	1		1
660	1		1
630	1		1
910	1		1
1002	1		1
1003	1		1
430	1/2		~~1/2~~
240	1/2		~~1/2~~
		O.K. HGS	Complete

Date
~~Complete Shipment~~
~~April 28,1913~~

Shipped Complete
April 28,1913
2703

DEFENDANT'S EXHIBIT 28.

Requisition sheet in handwriting of Leo. M. Frank, as follows:

House No. 7190

Date Apr. 26,1913 191__

Salesman D.P

Bill to _____

Order No. 4/22/13

NATIONAL PENCIL CO., ATLANTA, GA.

MANUFACTURERS

Ship to F.W.W.Co. #585 At 347 E. Main St.

Ship When at once DeKalb, Ill.

Remarks: _____

April 28,1913

Sales No.	Amount	Name or Remarks					
10	4		4				
20	2	30 Sub Pts.	2				
37	2		2				
35	2		2				
45	2		2				
120	2		2				
		OK HGS			Complete		

Date Complete Shipment Apr.28,1913

SHIPPED COMPLETE
APR.28,1913
2704

DEFENDANT'S EXHIBIT 29.

Requisition sheet in handwriting of Leo. M. Frank, as follows:

House No.
7191

Date April 26,1913 191

Salesman / Bill to } D.P.

Order No. 4/24/13

NATIONAL PENCIL CO., ATLANTA, GA.

MANUFACTURERS

Ship to F.W.W.Co. #25 At Wilkes-Barre,

Ship When c/o Penna Ry Penna

Remarks: at once

Sales No.	Amount	Name or Remarks	April 29, 1913
10	5		5
35	5		5
770	2	#3	2
430	5		5
640	2		2
240	2		2
902	1		1
280	1/2	#2	1/2
280	1/2	#3	1/2
280	1/2	#4	1/2
440	1	#2	1
440	1	#3	1
440	1	#4	1
720	1	W P	1
		O.K. HGS	
			OS
			Complete
~~Date Complete Shipment April 29,1913~~			
		~~Shipped Complete April 29,1913~~	

DEFENDANT'S EXHIBIT 30.

Requisition sheet in handwriting of Leo. M. Frank, as follows:

House No. 7192

Date Apr. 26, 1913 191

Salesman / Bill to D.P

Order No. 4/24/13

NATIONAL PENCIL CO., ATLANTA, GA.

MANUFACTURERS

Ship to F.W.W.Co. #262 At Saratoga Springs, N.Y.

Ship When at once

Remarks: c/o D. & H. Ry. 416-18 Broadway

Sales No.	Amount	Name or Remarks	4/28
10	5		5
20	5	30 Sub Pts.	5
37	1		1
35	1		1
45	1		1
120	1		1
140	1		1
155	1		1
770	1	#3	1
660	1		1
630	1		1
920	1	930 Sub.	1
910	1		1
950	1		1
430	1		1
220	1	#3	1
220	1	#4	1
640	1		1
1002	1/2		1/2
1003	1		1
280	1/2	#2	1/2
280	1/2	#3	1/2
480	1/2		1/2
440	1/2		1/2
720	1/2	W P OK HGS	OS Complete
		~~SHIPPED COMPLETE APR.28,1913~~ 2699	

DEFENDANT'S EXHIBIT 31.

Requisition sheet in handwriting of Leo. M. Frank, as follows:

House No.
7193

Date April 26, 1913 191

Salesman / Bill to } Mail

Order No. C4355

NATIONAL PENCIL CO., ATLANTA, GA.

MANUFACTURERS

Ship to Soo 5 & 10c Store At Sault Ste.Marie,

Ship When August 1st Mich.

Remarks:

Sales No.	Amount	Name or Remarks
10	10	
35-37	5	Asstd
45	5	
910	5	
640	5	
1002	2	
1003	2	
		Best Route to Chicago
		then by water

DEFENDANT'S EXHIBIT 32.

Requisition sheet in handwriting of Leo. M. Frank, as follows:

House No.
7194

Date Apr. 26, 1913 191

Salesman / Bill to } H.G.

Order No. 4/23/13

NATIONAL PENCIL CO., ATLANTA, GA.

MANUFACTURERS

Ship to Buetell Bros. Co. At 819-859 Clay Str.

Ship When at once Dubuque, Iowa

Remarks:

Sales No.	Amount	Name or Remarks May 6, 1913	
480	5		5
210	5		5
55	25		25
20	20		20
30	25		25
		OK HGS	Complete
		(Shipping Clerk Include all B'O's with this)	
		Date ~~Complete~~ Shipment May 6, 1913	
		SHIPPED COMPLETE May 6, 1913 2733	

DEFENDANT'S EXHIBIT 33.

Requisition sheet in handwriting of Leo. M. Frank, as follows:

House No.
7195

Date April 26,1913 191

Salesman / Bill to Facty

Order No. 4/26/13

NATIONAL PENCIL CO., ATLANTA, GA.
MANUFACTURERS

Ship to Montag Bros. At Atlanta,

Ship When At once Ga.

Remarks:

Sales No.	Amount	Name or Remarks		May 26,1913		
135x	50	Blks. sub. 35 gro.Pts.	50			
1900	10	added 4/29				8
1920	10	Transferred				5
1540	10	"	10			
1910	10	"	10			
40x	50	added 5/6/13		50		
420x	2	" " "		2		
420x	10	" 5/26/13				10
		O.K. HGS				
				OK HGS		
		FWLE				B
		May 6,1913 May 26,1913				

DEFENDANT'S EXHIBIT 35.

Requisition sheet in handwriting of Leo. M. Frank, as follows:

House No.
7197

Date Apr. 26, 1913 191

Salesman H.G.
Bill to

Order No. 4/24/13

NATIONAL PENCIL CO., ATLANTA, GA.

MANUFACTURERS

Ship to R.E.Kindell & Co. At 312 Plum St.

Ship When at once Cincinnati,

Remarks: Ohio

Sales No.	Amount	Name or Remarks	
160x	Sp.50	F.O. 154	51/1/2
		No stamp	
		Hold	
		CANCELLED 6/17/13	

DEFENDANT'S EXHIBIT 34.

Requisition sheet in handwriting of Leo. M. Frank, as follows:

House No.
7196

Date April 26,1913 191

Salesman / Bill to } Jno Lawrie & Sons

Order No. 134

NATIONAL PENCIL CO., ATLANTA, GA.

MANUFACTURERS

Ship to John Magnus Co. At 1055 W. 35th St.

Ship When at once

Remarks: Chicago, Ill.

Sales No.	Amount	Name or Remarks	April	28,	1913	
155x	25		25			
		O.K. HGS				
		Careful selection of goods.				
		Complete				
~~Date Complete Shipment~~						
April	28,1913					
		Shipped Complete April 28,1913 2698				

Date____________________191__

Salesman / Bill to ____________________ Order No.__________

NATIONAL PENCIL CO., ATLANTA, GA.

MANUFACTURERS

Ship to____________________ At____________________

Ship When____________________

Remarks: ____________________

Sales No.	Amount	Name or Remarks				

DEFENDANT'S EXHIBIT 36.

Statement of James Conley Made to John R. Black and H. Scott at Police Barracks, Atlanta, Ga., Sunday, May 18, 1913.

My full name is James Conley. I reside 172 Rhodes Street with Lorine Jones, who claims to be from Marietta, Ga. This woman is not my wife, and I have been living with her a little over two years. I have been having intercourse with Lorine Jones. I have been employed as elevator man and roustabout at the National Pencil Co. factory in Atlanta for the past two years. Before going to the pencil factory, I was employed by Dr. L. Palmer at Broad and Mitchell Streets, Atlanta, as a buggy driver. I worked for him for about one year. Previous to that time I worked for the Orr Stationery Co., Atlanta, as driver of wagon. Previous to that time I worked for Adam Woodward, as a stable hand for a year and three months. Previous to that time I worked for Mr. Copes wood yard, Atlanta, for five years. I am now 27 years of age, single.

On Saturday, April 26, 1913, I arose between 9 a.m. and 9:30 a. m. and ate my breakfast. At 10:30 I left the house, 172 Rhodes Street, and went to Peters Street and visited a number of saloons between Fair and Peters and Haynes and Peters Street. I purchased a half pint of rye whiskey from a negro who was walking along Peters Street about 11:00 a. m., I paying 40 cents for this whiskey. I visited the Butt-In saloon and went back to the pool tables and saw three colored men shooting dice, and I joined them and won 90 cents from them. I then purchased some beer, paying 15 cents. I then walked up the street and visited Early's beer saloon, purchased two beers and wine, paying ten cents for same. This was all the money I spent on Peters Street, and I arrived home at 2:30 p. m. and I found L. Jones there and she asked me if I had any money. I replied yes, and gave her $3.50 (one dollar in greenback, and the rest silver money). I drew $3.75 from the pencil factory on Friday, April 25, between 6:00 and 6:30. I spent 15 cents for meats on Friday night. Before receiving the $3.75 I did not have any money in my pocket. At 3:30 p. m. or 4:00 p. m., Saturday, April 26, I purchased 15 cents worth of beer and then returned to the house, and sent the little girl out to get ten cents worth of stove wood and five cents worth of pan sausage. I remained at home all Saturday night and at 12 o'clock noon, Sunday, April 27, I walked up on Mitchell street and got a cigarette, remaining there until 12:45 p. m., and returned home, remaining until 6:30 p. m., when I went to my mother's house, 92 Tattnall Street, and got my lunch, and then returned home and I remained at home until Monday, April 28th. On April 28th I reported for work at the pencil factory at 7:05 a. m.

(Signed) JAMES CONLEY.

DEFENDANT'S EXHIBIT 37.

Statement of James Conley of May 24, 1913.

STATE OF GEORGIA,
COUNTY OF FULTON.

Personally appeared before me, the undersigned, a Notary Public, in and for the above State and County, James Conley, who being sworn on oath says:

On Friday evening before the holiday, about four minutes to one o'clock, Mr. Frank come up the aisle and asked me to come to his office. That was the aisle on the fourth floor where I was working, and when I went down to the office he asked me could I write and I told him yes I could write a little bit, and he gave me a scratch pad and told me what to put on it, and told me to put on there "dear mother," "a long, tall, black negro did this by himself," and he told me to write it two or three times on there. I wrote it on a white scratch pad, single ruled. He went to his desk and pulled out another scratch pad, a brownish looking scratch pad, and looked at my writing and wrote on that himself, but when I went to his office he asked me if I wanted a cigarette, and I told him yes, but they didn't allow any smoking in the factory, and he pulled out a box of cigarettes that cost 15 cents a box, and in that box he had $2.50, two paper dollars and two quarters, and I taken one of the cigarettes and handed him the box and I told him he had some money in the box, and he said that was all right I was welcome to that for I was a good working negro around there, and then he asked me where Gordon Bailey (Snowball they call him) was, and I told him on the elevator, and he asked me if I knew the night watchman and I told him no sir, I didn't know him, and he asked me if I ever saw him in the basement and I told him no sir, I never did see him down there, but he could ask the fireman and maybe he could tell him more about that than I could, and then Mr. Frank was laughing and jollying and going on in the office, and I asked him not to take out any money for that watch man I owed, for I didn't have any to spare, and he told me he wouldn't, but he would see to me getting some money a little bit later. He told me he had some wealthy people in Brooklyn, and then he held his head up and looking out of the corner of his eyes and said "Why should I hang?" and that's all I remember him saying to me. When I asked him not to take out any money for the watch, he said you ought not to buy any watch, for that big fat wife of mine wants me to buy her an automobile but he wouldn't do it; I never did see his wife. On Tuesday morning after the holiday on Saturday, before Mr. Frank got in jail, he come up the aisle where I was sweeping and held his

head over to me and whispered to me to be a good boy and that was all he said to me.

(Signed) JAMES CONLEY.

Sworn to and subscribed before me this 24th day of May, 1913.
(Signed) G. C. FEBRUARY,
Notary Public, Fulton County, Georgia.
(Seal)

DEFENDANT'S EXHIBIT 38.

Statement of Jim Conley, May 28, 1913.

STATE OF GEOFGIA,
COUNTY OF FULTON.

Personally appeared before me, a Nortary Public, in and for the above State and County, James Conley, who being duly sworn, on oath says:

I make this statement, my second statement, in regard to the murder of Mary Phagan at the National Pencil Factory. In my first statement I made the statement that I went to the pencil factory on Friday, April 25, 1913, and went to Frank's office at four minutes to one, which is a mistake. I made this statement in regard to Friday in order that I might not be accused of knowing anything of this murder, for I thought that if I put myself there on Saturday, they might accuse me of having a hand in it, and I now make my second and last statement regarding the matter freely and voluntarily, after thinking over the situation, and I have made up my mind to tell the whole truth, and I make it freely and voluntarily, without the promise of any reward or from force or fear of punishment in any way.

I got up Saturday morning, April 26th, between 9 and half past 9. I was at home, 172 Rhodes Street. There is a clock on the Atlanta University and I looked at that clock after I put on my clothes; I went to the door and poured some water out of the wash pan and then I looked at the clock on the Atlanta University, but I forgot what time it was exactly, but I remember it was between nine and half past nine. Then I washed my face and I eat some steak and some liver and bread and drank a cup of tea, and then I sat down in a chair a little while, about ten minutes, I guess, and then I told my wife to give me back the three dollars and I would get some paper money to keep her from losing it, to pay her rent with, and she gave it to me, and I told her I was going to Peters Street, and I went to Peters Street, and stopped at the beer saloon near the corner of Peters and Haynes Street and I bought two beers there for myself and give another fellow a beer, I don't know what his name was, but they call him Bob. I don't know where he works, but he had a whip over his shoulder. I stayed in that saloon 3 or 4 minutes, just long enough to drink that beer, and then I walks up to the Butt-In Saloon and walks back to the pool table, and there were four fellows

back there shooting dice, five with me, one was named Joe Bobs, and one was named Bob Williams, and I won 90 cents. I don't know how long we were shooting for we were shooting on the sly, unbeknownst to the bar tender. I guess we were shooting about ten minutes, and then I come to the bar and bought a glass of beer there at the Butt-In Saloon, and then I went to Early's beer saloon on Peters St. and I bought a glass of beer there and I walked back to the toilet and stood there and made a cigarette and then bought another glass of beer, and I come out and bought a half pint of whiskey and I drank some of the whiskey, and then I started to the Capitol City Laundry and on my way there I met Mr. Frank, at the corner of Forsyth and Nelson Streets going to Montags, and he told me to wait a few minutes, and he asked me where I was going, and I told him I was going to the Capitol City laundry to see my mother, and he didn't say nothing, only he said to wait a minute until he come back, that he was going to see the Montags, and I stood there until he come back, he was gone about 20 minutes, I guess. He come back and told me to come to the factory, that he wanted to see me, and I went to the factory with him, walking behind him, and he stopped at the Curtis Drug Store at Forsyth and Mitchell Streets and he got a drink, and I waited on the outside until he come out, and then he told me to come on and I went to the factory with him. He had a box with him, which he carried with him to the Montag's; it has an opener to it, and after we got to the factory, Mr. Frank took the box and put it there at the trash barrel, which was just to the right of the steps as you go in, he put a box there for me to sit on. There was some great big boxes back further. He told me to sit down there until I heard him whistle. He just took his foot and pushed a box over there for me to sit on. Then he told me not to let Mr. Darley see me, and after Mr. Frank went up the steps, in a few minutes here comes a young lady downstairs, that was Miss Mattie. I think she had on a dark red suit and a rain cloak and a parasol in her hand, but I didn't notice her hat. Then here comes Mr. Darley down, and he had on a gray suit of clothes, didn't have any hat on his head, and he stopped Miss Mattie at the front door, and when he stopped her I saw Miss Mattie with a handkerchief wiping her eyes, it seemed to me like she had been crying, and then I heard Mr. Darley say to her, "Don't worry, I will see that you get that next week," and they stood there and talked awhile, but I could not hear anything else they said, then she went on out the door and Mr. Darley came back up the steps, and Mr. Darley stayed up there a good while, then he come down and left and I did not see him anymore. Then here comes Mr. Holloway down, about five minutes after Mr. Darley had gone; Mr. Holloway went out on the sidewalk and stood there three or five minutes and then he come and went back up the steps, and then here come another colored fellow, a pegged-legged one, and he went up the steps, he had some bills in his hands, and Mr. Holloway come back down with the pegged-legged one and went out on the sidewalk and looked at the fellow's wagon, but what he said to him I don't know. It was a wagon that had sides to it and I didn't see the name on it. It wasn't a regular dray, I

don't think, it looked like it might have come from that plate glass company on Alabama street. Then Mr. Holloway went back upstairs and it wasn't long before Mr. Holloway come back down and was gone for good. I don't know how long, but I guess he stayed upstairs long enough to put on his coat and hat. I saw Mr. Holloway turn up to his right towards Hunter Street, then there comes another lady into the factory, and she had on a green looking dress, she works on the fourth floor, and she walked with her head down, sort of stoop shouldered, she works for Arthur White. She stayed up there 7 or 8 minutes and then she come back down with her money in her hand, and she stood just a little opposite me and tore the envelope open right there and took her money out and counted it, and she shut her hand up and went out the door and she turned towards Hunter Street, and about 15 or 20 minutes after there, there wasn't any passing at all, and I sat there on the box with my head against the trash barrel. I stretched my feet out and put my hat in my lap, but I couldn' say whether I went to sleep or not, and the next thing that attracted my attention, Mr. Frank whistled for me twice, just like this (indicating), and when he whistled I went on up the stairs and the double doors on the stairway were closed and I opened them and they shut themselves, and Mr. Frank was standing at the top of the steps and he said, "You heard me, did you?" and I said "Yes, sir," and Mr. Frank grabbed me by my arm and he was squeezing my arm so tight his hand was trembling. He had his glasses on, and he had me just like he was walking down the street with a lady, and like he didn't want me to look behind me at all, and I thought it was because he had me so tight that made him tremble, and he carried me through the first office and into his private office, and then he come back in there, and he didn't say nothing, he grabbed up a box of sulphur matches, and he went back in the outer office, the door was open between his office and the outer office, and then he saw two ladies coming and he said to me, "Gee, here comes Miss Emma Clark and Miss Corinthia Hall" and he come back in there to me, he was walking fast and seemed to be excited, and he said to me, "Come right in here, Jim," and he motioned to the wardrobe and I was a little slow about it and Mr. Frank grabbed me and gave me a shove and put me in the wardrobe and he shut the doors and told me to stay there until after they had gone, and I just heard Miss Emma say "Good morning, Mr. Frank, are you alone?" and Mr. Frank said "Yes," and I couldn't hear them say nothing else, but I didn't know it was Miss Corinthia Hall until Mr. Frank spoke and said it was, but I heard Miss Emma's voice; they didn't stay there long, until they were gone. I didn't hear them. The next move was Mr. Frank come and let me out of the wardrobe. I don't remember Miss Hall and Miss Clarke using the telephone, if they did I didn't hear them and I didn't see them myself. I stayed in the wardrobe a pretty good while, for the whiskey and beer I had drank got me to sweating. I couldn't hear them talking, only I heard Miss Emma say, "Good morning," If they had been talking loud I could have heard them, but if they were talking low I couldn't. If they went upstairs, Mr. Frank must have kept right

behind them, to see that they didn't take off anything. Then after awhile Mr. Frank he come into the office and he pulled out one of those round chairs from under the desk. The first thing, he let me out of the wardrobe and I said, "I got too hot in there," and he said "Yes, I see you are sweating." When he opened the door I was fixing to step out, and his eyes were looking larger than they usually look, and he jerked the door open and I was right there in front of the door, and then Mr. Frank said to me to sit down in a chair, in the one that turns all the way around, and when I sat down he told me to get up and shut the door; that was the door between his office and the stenographer's office, and I got up and shut it, and he said, "Jim, can you write." He was sitting down facing me and he brushed back his hair and I said "Yes, sir, I can write a little bit, Mr. Frank," and then he give me a pencil that he got off the top of his desk, and there was nothing on it, he turned a sheet over for me to write, and then he told me what to put there, he told me to put on there "dear mother, a long tall black negro did this by hisself," and when I went to put down "negro" I put it "n-e-g-r-o-s" and he said don't put no "s" there, he said that means negros and he said now rub the "s" off and I rubbed the "s" out, and he said, "It means just one person like yourself," and he told me to write it again and I written it, and he looked at it and slapped me on the back and said "That's all right, old boy," and he said "write it again," and I written it for him three times. Then Mr. Frank reared back in his chair and asked me if I wanted a smoke and I told him "Yes, sir," and he taken out a cigarette for himself and handed me the box and he sort of turned around when he handed me the box and I taken out a cigarette and he handed me the box of matches, and I taken out a cigarette and lit it and saw some money in the box and I handed the box of cigarettes back and he told me that was all right to keep them, and I told him he had some money in the box and he said that was all right, I could have that. I taken it and stuck it in my pocket and then Mr. Frank looked around at me and held up his head towards the top of the house and said "Why should I hang, I have wealthy people in Brooklyn." I didn't know what he was talking about, I didn't have any idea in the world what he was talking about, and he was winking and rubbing his hands together and touching me on the shank with his foot and took a deep breath, he said "Why should I hang?" and shook his head and rubbed his hands together. Then he asked me where was Snowball (Gordon Bailey), and I told him I didn't know sir, and he asked me did I know the night watchman, and I told him no sir, I didn't know the night watchman personally, I just knew him by passing him, and he asked me if I had seen him in the basement at any time and I told him no sir, that he would have to ask the fireman about that, for he was down in the basement more than any of us was, and when I told Mr. Frank that he stuck one finger in his mouth and said "S-s-sh, that's all right," and then Mr. Frank told me he was going to take that note I had written and send it off in a letter to his people when he wrote, and recommend me to them, because I was a good working negro around there, and he liked me,

and when Mr. Frank said that I said "Don't take out another dollar for that watchman," and he said "All right, I won't," and he said, "I don't see why you want to buy a watch, because that big fat wife of mine wanted me to buy her an automobile but I won't do it." I didn't say nothing about that for it didn't concern me, and didn't seem to concern the subject he was talking about at first, and then Mr. Frank told me when he wrote that letter he would not forget about me and he said "Well, I will see you later about this," and I said "All right, sir," and then he reached in his pocket and pulled out his watch and said, "It is nearly time for me to be going to dinner," but I didn't look at the watch. Then I asked Mr. Frank if that was all he wanted with me right now, and he said yes, and then I asked him again, "Do you mean I can have what's in the box sure enough, Mr. Frank," and he said "Yes," but all the time though he was talking and jollying and going on with me, and I began to think it was something, for a white man to be playing with a negro, and during the time he cast his eyes up to the top of the house and said, "Why should I hang, I have wealthy people in Brooklyn." I never did know where Mr. Frank's home was, I thought this was his home all the time. Then Mr. Frank said "I will see you Monday, if I live and nothing happens, James," and I said "Well, is that all you want for good, Mr. Frank?" and he said "Yes," and I saw him go to his desk and take out a brownish-looking scratch pad. The one I wrote on was white and was single ruled and I saw him take out a brownish-looking one from his desk and he took his pencil and made a mark on it. I took it to be an "M," but he shut the tablet up and looked at me and told me that was all he wanted with me, and he come all the way to the top of the steps and he come three or four steps down to where he could see me until I hit the sidewalk, it seems as if he was watching me to see if I would take anything as I went out, but there was nothing to take unless I took a great big box, but when I passed those two doors on the steps there, Mr. Frank told me to leave one of them open, and I taken a little piece of iron they have there, and pushed it against the door to keep it from shutting and went on out in the street, and I pulled the front doors to as I went out, and I went to the beer saloon across the street and opened the cigarette box and it had two paper dollars in there and two silver quarters, and I laughed and said "Good luck has done struck me," and I bought a ten-cent double header and then went back to Peters street, and hadn't none of the boys got there that I run with and I walks up there to the moving picture show and looked at the pictures and they didn't seem to be any good, and I come back down Peters Street looking for that fellow I got the half pint whiskey from, but I couldn't find him, and I struck out for home, and when I got home it was about half past two o'clock, and I took the bucket and went to Joe Carr's at Mangum and Magnolia Street, and got fifteen cents worth of beer in it and come back home and sent the little girl to get a dime's worth of stove wood and a nickle's worth of pan sausage, and I eat half the pan sausage up raw, and I give my old lady $3.50, and the other little change I kept it, and I layed down across the bed and there is where

I stayed until about half past eight that night, and I got up and set in front of the fire a little while and got to swimming at the head, and then here comes her sister, and after she left I went to bed and I didn't leave home no more until twelve o'clock Sunday, in the day time, and I walked up Mitchell Street and stayed up there until a quarter to one, and I come on back home. I was feeling bad, and I layed down across the bed and stayed there until 6 o'clock or 6:30 that night, and I walked up to my mother's at 92 Tattnall Street, and they gave me a lunch up there and I brought it on back home and I stayed there and eat it up and stayed at home until 10 minutes to 7 the next morning, and when I got to the corner of Forsyth and Mitchell Street, the W. & A. blowed for 7 o'clock, and then I went running on to the factory, and it was four or five minutes after 7 o'clock,, the clock may have been a little fast, and when I got there I went upstairs to the dressing room and in comes Gordon Bailey, and here comes Joe Wiliams, and then Mr. Wade Campbell, the lead inspector, and he comes in there and says "Wasn't it bad about that girl being killed," and we asked him "which girl" and it seemed like he said "Mary Puckett," and we asked him whereabouts and he said "in the basement," and we asked him if it was a white or colored girl," and he said "It was a white girl," and we told him "Yes it was," and we asked him how she got killed, and he said he didn't know, and then he come on out the door first and I come right behind him with the sprinkler in my hand, and then he went to the toilet and I went right behind him and got a sprinkler full of water and I stayed down the aisle until about 9 o'clock, and I went and got my raw stuff on the third floor and brought it up to the fourth floor and unloaded it, and then I said I would go to the basement and see who that was that got killed, and when I got there there was such a crowd of white people there I couldn't go back there, and then the fireman sent me to get him a nickle's worth of onions and a loaf of bread, and then here comes Gordon and he give me a nickle and the fireman give me a nickle and told me to get them a dime's worth of beer and I got it and we all drank it. I went back upstairs and stayed up there until about 15 minutes to 10, and the whistle blowed for the factory to shut down, and I heard Mr. Joe Stelker say the factory was going to close and to come back to-morrow, and I went and changed shoes and pulled off the pants and put on my hat and come down at 10 minutes to 10, and didn't go back any more until Tuesday morning, and went to work at Tuesday morning and got through with my work and went down stairs about half past 9 and there was such a crowd down there I didn't stay long, and I come back up the aisle and went taking up some trash and about half past 10 or 11 o'clock, Mr. Frank come back up the aisle and leaned over to me and said "Jim be a good boy" and I said "Yes, sir, I am, Mr. Frank," and when I heard from Mr. Frank again he was arrested.

I come to work Wednesday morning and started down to the basement and there was such a crowd down there I couldn't get to use the toilet, and I goes back upstairs and finished my work and works all that day, and Thursday

morning I come to work and got caught up by 10 o'clock, and I went downstairs and the fireman and another colored fellow was down there and I asked the fireman where it was that they say the young lady got killed at, and he told me right around there, and I took a little piece of paper and went around there to see if I could see, but I couldn't see where anybody had been laying at, and I come on back and found he was throwing some stuff into the furnace, and I went on upstairs and stayed there until 25 minutes to 12, and the detectives were giving us all subpoenaes and I got my subpoena and went back upstairs and stayed up there until 5 minutes to 12, and I come down and went out in the streets and heard the whistle when it blowed for 12 o'clock, and I went back and started to cleaning up at half past twelve, and got through cleaning at half past one. Then I went down to wash my shirt so I could have a clean one to wear to court, for I had been wearing this one for three weeks and when I got back there and pulled off my shirt and washed it, then there comes Mr. Quinn and I asked him where was the dry house and he showed me where it was, and he told me, he said "Jim, there ain't no steam in there now," and I said to myself I will have to hang this on the steam pipe to get it dry, and by me hanging it on there I got a little rust on it, and some of them saw me back there washing my shirt and called up the detectives and when the detectives come up there I had done put on my shirt and they asked me where was the shirt I was washing and I told them this here was the shirt, and they said yes, because it was not good dry, and then told me to come and go with them, and I did. They brought me down here and found there was no blood on the shirt, and gave me my shirt back, and that's all I know.

(Signed) JAMES CONLEY.

Sworn to and subscribed before me this the 28th day of May, 1913.

G. C. FEBRUARY,
Notary Public, Fulton County, Georgia.

DEFENDANT'S EXHIBIT 39.

Conley's Statement of May 29, 1913.

Atlanta, Ga., May 29, 1913.

On Saturday, April 26, 1913, when I come back to the pencil factory with Mr. Frank I waited for him downstairs like he told me, and when he whistled for me I went upstairs and he asked me if I wanted to make some money right quick and I told him "Yes, sir," and he told me that he had picked up a girl back there and had let her fall and that her head hit against something, he didn't know what it was, and for me to move her, and I hollered and told him the girl was dead, and he told me to pick her up and bring her to the elevator and I told him I didn't have nothing to pick her up with and he told me to go and look by the cotton box there and get a piece of cloth, and I got a big wide piece of cloth and come back there to the men's toilet where she was, and I tied her up, and I taken her and brought her up there to a little dressing

room, carrying her on my right shoulder, and she got too heavy for me and she slipped off my shoulder and fell on the floor right there at the dressing room and I hollered for Mr. Frank to come there and help me, that she was too heavy for me, and Mr. Frank come down there and told me to pick her up, damn fool, and he run down there to me and he was excited, and he picked her up by the feet, her head and feet were sticking out of the cloth and then we brought her on to the elevator, Mr. Frank carrying her by the feet and me by the shoulders, and we brought her to the elevator and then Mr. Frank says, "Wait, let me get the key," and he went into the office and got the key and come back and unlocked the elevator door and started the elevator down. Mr. Frank turned it on himself and we went on down to the basement and Mr. Frank helped me to take it off the elevator and he told me to take it back there to the sawdust pile, and I picked it up and put it on my shoulder again, and Mr. Frank, he went up the ladder and watched the trap door to see if anybody was coming, and I taken her back there and taken the cloth from around her and taken her hat and shoe which I had picked up upstairs right where her body was lying, and brought them down and untied the cloth and brought them back and throwed them on the trashpile in front of the furnace, and Mr. Frank was standing at the trap door at the head of the ladder. He didn't tell me where to put the things. I layed her body down with her head towards the elevator, lying on her stomach and the left side of her face was on the ground and the right side of her face was up, and both arms were laying down with her body, by the side of her body. Mr. Frank joined me back on the first floor. I stepped on the elevator and he stepped on the elevator when it got to where he was, and he said "Gee, that was a tiresome job," and I told him his job was not as tiresome as mine was, because I had to tote it all the way from where she was lying to the dressing room, and in the basement from the elevator to where I left her. Then Mr. Frank hops off the elevator before it gets even with the second floor and he makes a stumble and he hits the floor and catches with both hands, and he went on around to the sink to wash his hands, and I went and cut off the motor, and I stood and waited for Mr. Frank to come from around there washing his hands, and then we went on into the office, and Mr. Frank he couldn't hardly keep still, he was all the time moving about from one office to the other, then he come back into the stenographer's office and come back and he told me "Here comes Emma Clark and Corinthia Hall," I understood him to say, and he come back and told me to come here and he opened the wardrobe and told me to get in there, and I was so slow about going he told me to hurry up, damn it, and Mr. Frank, whoever that was come in the office, they didn't stay so very long, till Mr. Frank was gone about 7 or 8 minutes, and I was still in the wardrobe and he never had come to let me out, and Mr. Frank come back and I said, "Goodness alive, you kept me in there a mighty long time," and he said, "Yes, I see I did, you are sweating," and then me and Mr. Frank set down in a chair. Mr. Frank then took out a cigarette and he gave me the box and asked me did I want to smoke and I told him yes, sir, and I taken the

box and taken out a cigarette and he handed me a box of matches and I handed him the matches back, and I handed him the cigarette box and he told me that was all right, I could keep that, and I told him he had some money in it and he told me that was all right, I could keep that, and Mr. Frank then asked me to write a few lines on that paper, a white scratch pad he had there, and he told me what to put on there, and I asked him what he was going to do with it and he told me to just go ahead and write, and then after I got through writing Mr. Frank looked at it and said it was all right, and Mr. Frank looked up at the top of the house and said, "Why should I hang, I have wealthy people in Brooklyn," and I asked him what about me, and he told me that was all right about me, for me to keep my mouth shut and he would make everything all right, and then I asked him where was the money he said he was going to give me and Mr. Frank said, "Here, here is two hundred dollars," and he handed me a big roll of greenback money and I didn't count it; I stood there a little while looking at it in my hand, and I told Mr. Frank not to take another dollar for that watch man I owed and he said he wouldn't—and the rest is just like I have told it before.

The reason I have not told this before is I thought Mr. Frank would get out and help me out, but it seems that he is not going to get out and I have decided to tell the whole truth about this matter.

While I was looking at the money in my hands, Mr. Frank said: "Let me have that and I will make it all right with you Monday if I live and nothing happens," and he took the money back and I asked him if that was the way he done and he said he would give it back Monday.

(Signed) JAMES CONLEY.

Sworn to and subscribed before me this 29th day of May, 1913.

(Signed) G. C. FEBRUARY,
Notary Public, Fulton County, Ga.

DEFENDANT'S EXHIBIT 40.

Cash book of the National Pencil Company, page 197 of which contains the following entries, in Frank's handwrting:

Page 196

Cash.

1913	Dr.
To balance	39.85
4/22 To check	15.00
4/24	15.00
	69.85

Page 197

Cash.

1913	Cr.
By kerosene	.15
" type	.75
" dray	6.70
" cases	10.50
" express	1.10
" postage	1.00
" parcel post	.16
" 2 wks rent typewriter	2.00
" supplies, Scheegass	.45
" King Hdw. Co.	.85
" tinsmith	11.50
" thread	.05
" carfare	.10
" Herbert Wright	4.00
Omitted from payroll	39.31
Balance to fund	30.54
	69.85

DEFENDANT'S EXHIBIT 41.

Cash book items made out by Frank to balance cash book.

Kerosene .15		.15
Type .75		.75
Dray	2.00	
	1.70	
	1.00	
	2.00	
	6.70	6.70
Cases	2.50	
	1.25	
	3.50	
	1.75	
	1.50	
	10.50	10.50
Express .35 & .75		1.10
Postage .50 & .50		1.00
Parcel post .03 & .13		.16
Rent typewriter, 2 wks		2.00
Supplies .45-Sch.		.45
King Hdw. Co. .85		.85
Tinsmith 11.50		11.50
Thread .05		.05
Carfare .10		.10
Herbert Wright 4.00		4.00
		39.31
	39.85	
	30.00	
	69.85	
	30.31	
	30.54	

Cash box $4.34 short

O K. F. 3/26/13

DEFENDANT'S EXHIBIT 42.

Letter written by Leo M. Frank to Mr. Moses Frank. The letter was not typewritten but was in long hand and folded to a size to fit ordinary size envelope, and was as follows:

Atlanta, Ga., April 26, 1913.

Dear Uncle:

I trust that this finds you and dear Tante well after arriving safely in New York. I hope that you found all the dear ones well in Brooklyn and I await a letter from you telling me how you find things there. Lucile and I are well.

It is too short a time since you left for anything startling to have developed down here. The opera has Atlanta in its grip, but that ends to-day. I've heard a rumor that opera will not be given again in a hurry here.

To-day was "Yondef" here, and the thin gray line of veterans, smaller each year, braved the rather chilly weather to do honor to their fallen comrades.

Enclosed you will find last week's report. The shipments still keep up well, tho' the result is not what one would wish. There is nothing new in the factory, etc., to report. Enclosed please find the price list you desired.

The next letter from me, you should get on board ship. After that I will write to the address you gave me in Frankfurt.

With much love to you both, in which Lucile joins me, I am

Your affectionate nephew,

(Signed) LEO M. FRANK.

DEFENDANT'S EXHIBIT 43.

Weekly report forwarded to Moses Frank by Leo M. Frank, enclosed in Leo M. Frank's letter to Moses Frank, as set forth in exhibit "42," said report being in Frank's handwriting, same being folded to same size as envelope set forth as Exhibit 44.

FINANCIAL.

Week ending April 24, 1913.

Production: Net	2719½	
Good	700	Gr.
Medium	629½	Gr.
Cheap	599	Gr.
Jobs	791	Gr.
	29%	

Net Value Prod'n	$3066.31
Total Expenditures	3175.75
Result—Deficit	109.44

Shipments

$5438.78
4374 gr.

Orders received

$3320.31 Value
1904 Gross
O. K. F

DEFENDANT'S EXHIBIT 44.

Envelope in which Leo M. Frank's letter (Exhibit 42) to Moses Frank and weekly report (Exhibit 43) were enclosed, the address on said envelope being in Leo M. Frank's handwriting.

L.M.Frank
c/o NATIONAL PENCIL CO.
ATLANTA, GA.

Atlanta, Ga.
Apr26
8-PM
1913

: Cancelled
: Stamp
:
:
::::::::::

Mr. M. Frank,

c/o Hotel McAlpin,

Greely Square,

New York, N.Y.

DEFENDANT'S EXHIBIT 45.

Weekly report sent by Leo M. Frank to Oscar Pappenheimer and received by the latter on April 28, 1913, said report being in the handwriting of Frank.

FINANCIAL.

Week ending April 24, 1913.

Production: Net	2719½	Gr.
Good	700	Gr.
Medium	629½	Gr.
Cheap	599	Gr.
Jobs	791	Gr.
	29%	

Net Value Prod'n	$3066.31
Total Expenditures	3175.75
Result—Deficit	109.44

Shipments

$5438.78

4374 gr.

Orders received

$3320.31 Value

1904 Gross

O. K. F

DEFENDANT'S EXHIBIT 46.

Weekly financial reports of the business of the National Pencil Company sent by Leo M. Frank to Oscar Pappenheimer for each week beginning January 18, 1912, and ending with the week ending April 24, 1913, each of said reports being identical in form with the defendant's Exhibit "45" and being in the handwriting of Leo M. Frank.

DEFENDANT'S EXHIBIT 47.

Pay envelope found by detective McWorth. It is an ordinary pay envelope used by the Pencil Company with the number "186" written thereon, with the first initials of a name on it, an "M" and a "P."

DEFENDANT'S EXHIBIT 48.

Club found by detective McWorth at the factory. The club is round, about three feet long and three inches in diameter, weighs approximately three pounds and has several red blotches thereon.

DEFENDANT'S EXHIBIT 49.

Brown suit of clothes worn by Leo M. Frank on April 26, 1913. Consists of coat, pants, and vest. Suit does not appear to be new, but is clean and unspotted.

DEFENDANT'S EXHIBIT 50.

Bank book showing account of Leo M. Frank with Atlanta National Bank. Shows balance on April 1, 1913, of $111.13, and a deposit of $15 on April 18. It further shows that the sum of $109.85 had been drawn out on checks (Defendant's Exhibit 51), leaving a balance to the credit of depositor of $16.28.

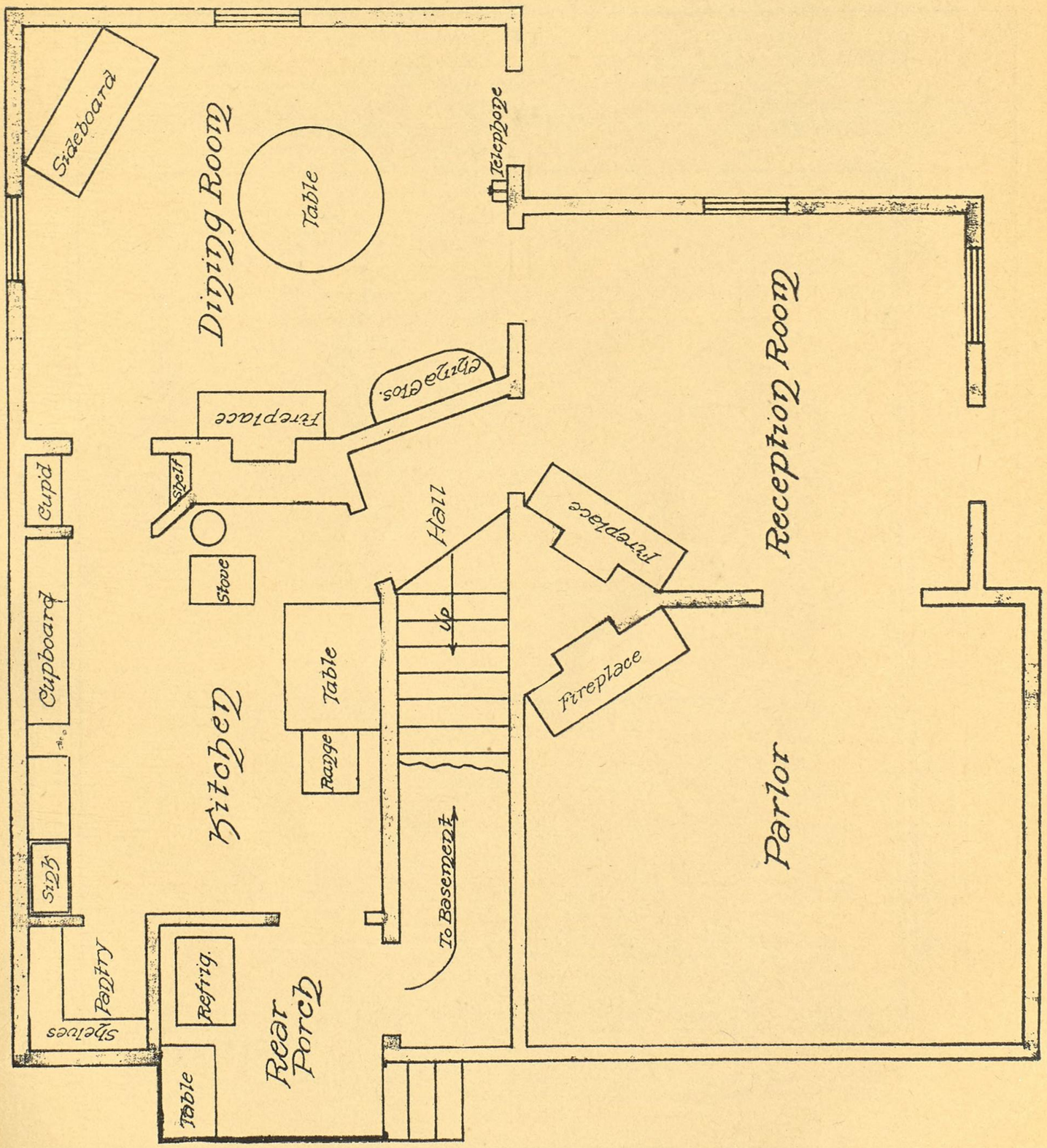
DEFENDANT'S EXHIBIT 51.

Twelve cancelled checks drawn on the Atlanta National Bank, signed by Leo M. Frank as follows:

No. Date	Amount	Payee	Endorsements
450-4/1/13	$20.00	Mrs. L. M. Frank	Mrs. L. M. Frank Chamberlain-Johnson-DuBose Co.
451-4/1/13	1.50	Westview Floral Co.	Westview Floral Co.
452-4/1/13	12.34	Haas & Co.	Haas & Co.
453-A-4/9/13	32.50	Rivers Realty Co.	Rivers Realty Co. American Natl. Bank
453-B-4/9/13	8.00	Mrs. E. Selig	Mrs. E. Selig S. S. Echols Co. Travelers Bank & Tr. Co.
454-4/6/13	4.75	S. M. Truitt & Son	S. M. Truitt & Son
455-4/21/13	7.50	Alex Dittler, Sec'y	Alex Dittler, Sec'y Dittler Bros. Fourth Natl. Bank
456-4/2/13	6.26	Guthman Ldry Co.	Guthman Laundry & D. Cl. Co.
457-4/2/13	2.00	Maier & Berkele	Maier & Berkele
458-4/9/13	5.00	Self	Leo M. Frank
459-4/15/13	5.00	Self	Leo M. Frank
460-4/24/13	5.00	Self	Leo M. Frank

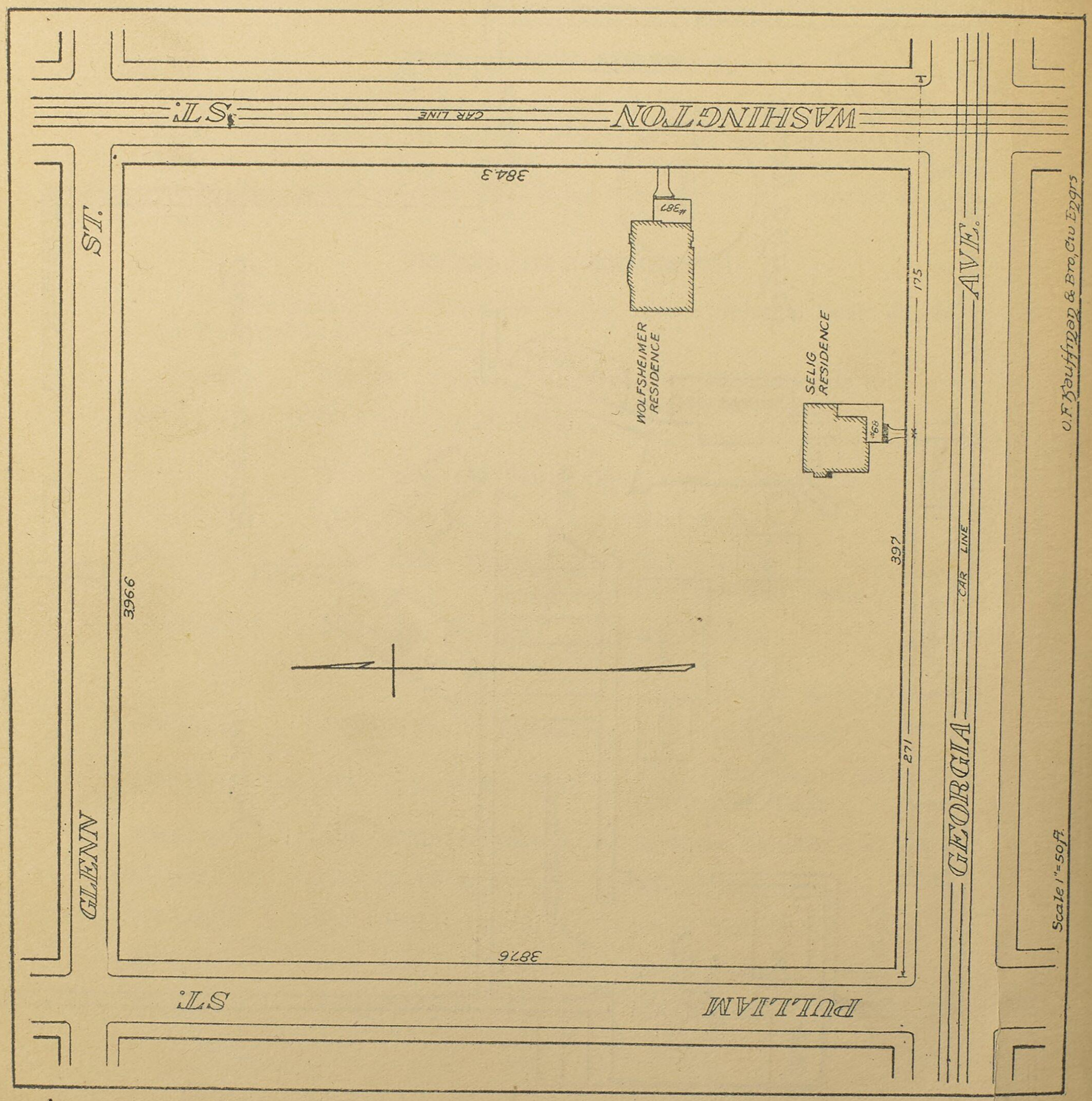
DEFENDANT'S EXHIBIT 52.

First floor plan of the Selig residence.



DEFENDANT'S EXHIBIT 53.

Plat of Washington Street and Georgia Avenue, showing the relative positions with respect to each other of the Selig residence at 68 E. Georgia Avenue and the Wolfsheimer residence at 387 Washington Street.

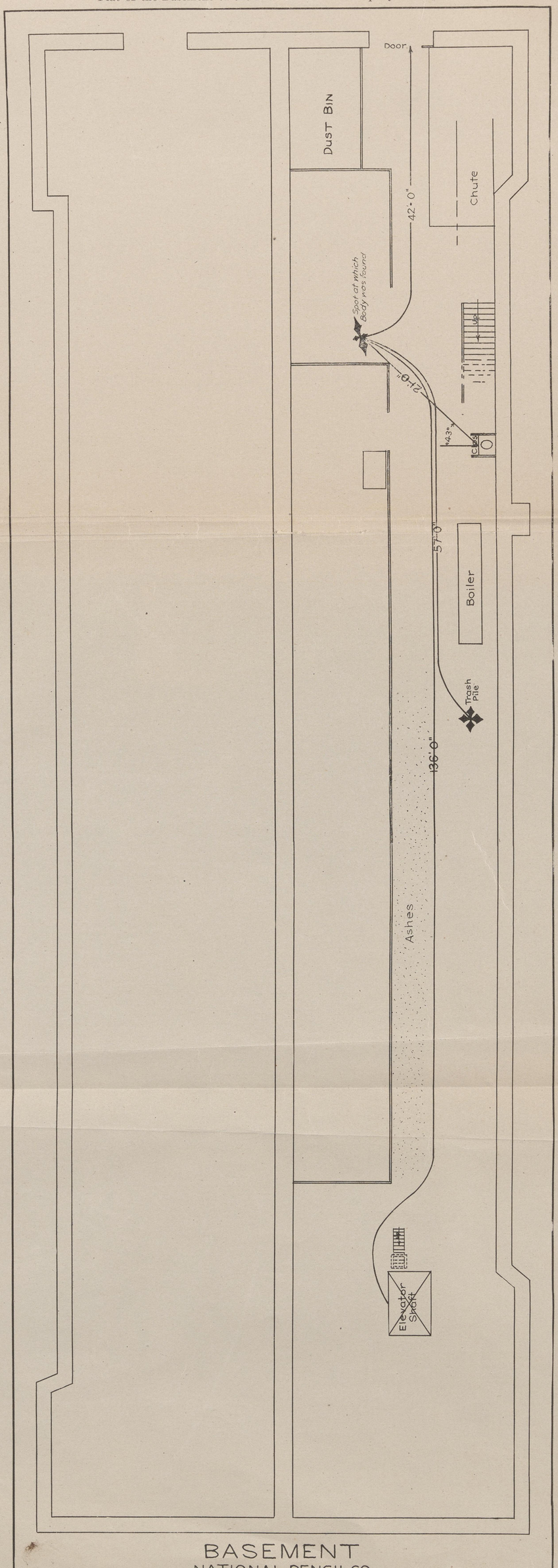


DEFENDANT'S EXHIBIT 61.

Plat of the Basement of the National Pencil Company factory.

DEFENDANT'S EXHIBIT 61.

Plat of the Basement of the National Pencil Company factory.



BASEMENT

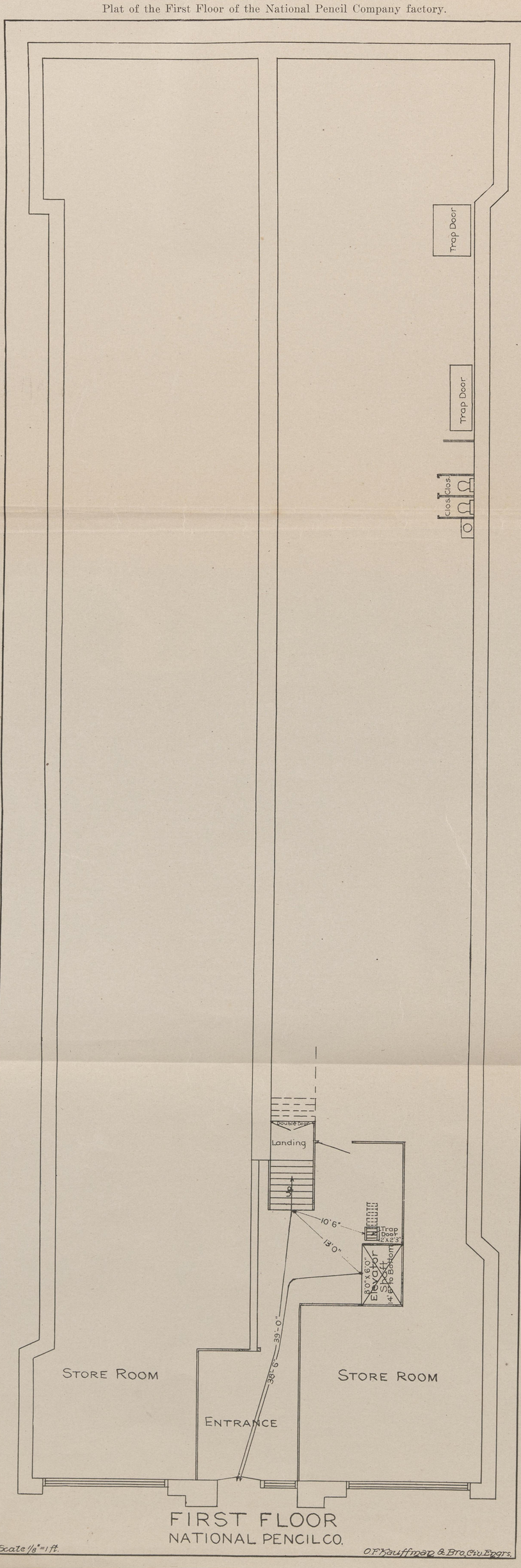
NATIONAL PENCIL CO.

Scale 1/8" = 1 ft.

O. F. Kauffman & Bro. Civ. Engrs.

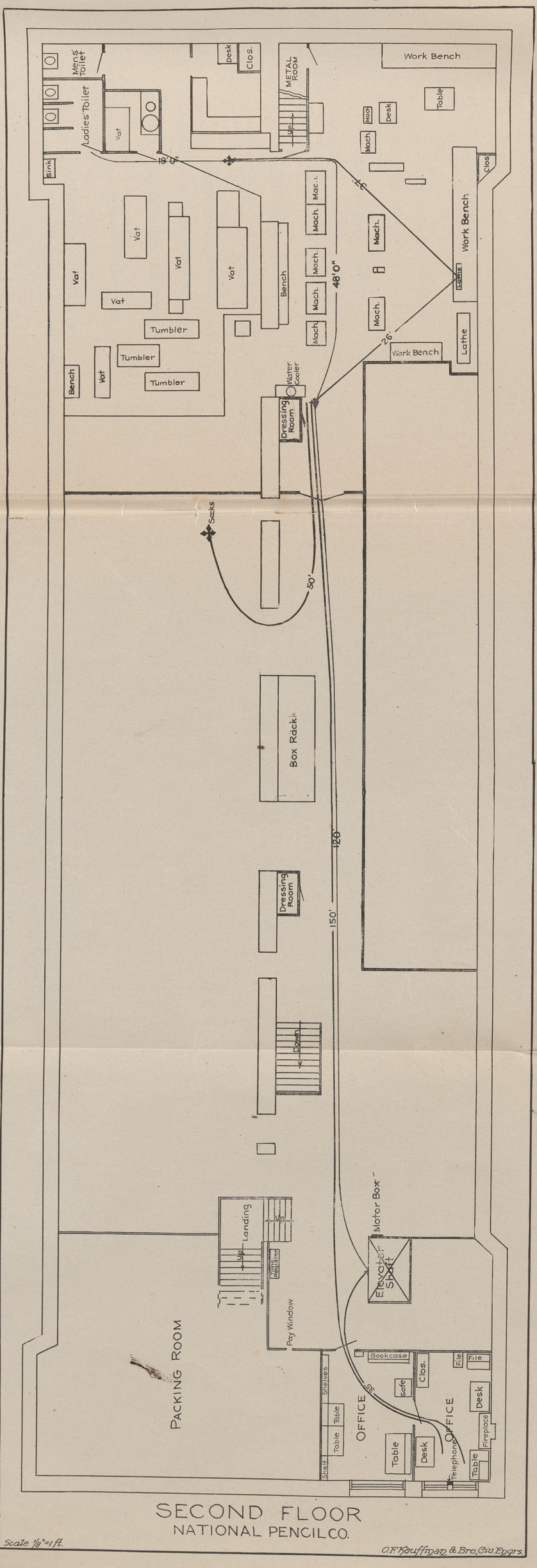
DEFENDANT'S EXHIBIT 61—Continued.

Plat of the First Floor of the National Pencil Company factory.



DEFENDANT'S EXHIBIT 61—Continued.

Plat of the Second Floor of the National Pencil Company factory.



SECOND FLOOR
NATIONAL PENCIL CO.

Scale 1/8"=1 ft.

O.F. Kauffman & Bro. Civ. Engrs.

DEFENDANT'S EXHIBIT 62.

Picture of the Selig home taken from the outside of the back door of the kitchen. It shows the entire kitchen and also the door leading into the dining room. It shows nothing else in the dining room.

DEFENDANT'S EXHIBIT 63.

Picture of Selig home taken standing directly inside the back door of kitchen. Shows practically same view as last picture but shows no view at all of the dining room.

DEFENDANT'S EXHIBIT 64.

Picture of the safe with open door standing in outer office of the National Pencil Company.

DEFENDANT'S EXHIBIT 65.

Picture of the outer office of the National Pencil Company factory, showing the safe with the door wide open. Picture shows safe door shutting off any view into the inner office and shows no view of anything in the inner office.

DEFENDANT'S EXHIBIT 66.

Picture taken on the outside of the outer office looking toward the inner office with the safe door open. It shows no view at all into the inner office.

DEFENDANT'S EXHIBIT 67.

Picture showing the pay window in the office of the National Pencil Company factory.

DEFENDANT'S EXHIBIT 68.

Picture showing foot of elevator shaft in the basement of the National Pencil Company factory. Shows rubbish and trash in elevator shaft and barrels adjacent thereto.

DEFENDANT'S EXHIBIT 69.

Picture of basement of National Pencil Co. factory, looking from the elevator shaft to the back door.

DEFENDANT'S EXHIBIT 70.

Picture of the corner in the basement where body was found, around the left corner behind the partition shown on the picture.

DEFENDANT'S EXHIBIT 71.

Picture showing passage way leading to the back door in the basement of the factory. Picture shows boxes piled up on each side of the passage way to the height of the ceiling.

DEFENDANT'S EXHIBIT 72.

Picture showing entrance to the factory from the street. Shows the partition on the right immediately entering the factory, behind which is the elevator. The steps leading to the second floor of the factory are shown in the background.

DEFENDANT'S EXHIBIT 73.

Picture showing elevator shaft and trap door on the ground floor of the factory. Shows steps leading to the second floor on the left of the picture.

DEFENDANT'S EXHIBIT 74.

Picture of metal room, showing place where Conley claims to have found body.

DEFENDANT'S EXHIBIT 75.

Picture showing place where cotton sacks were kept.

DEFENDANT'S EXHIBIT 76.

Picture of the plating room.

DEFENDANT'S EXHIBIT 77.

Picture of the metal room, showing where the floor was chipped up by the detectives in front of dressing room.

DEFENDANT'S EXHIBIT 78.

Picture showing lathe where Barrett claims to have found hair.

DEFENDANT'S EXHIBIT 79.

Picture showing view from third floor looking down steps to second floor. Picture shows man walking on second floor from the metal room toward the elevator.

DEFENDANT'S EXHIBIT 80.

Picture showing elevator box on the office floor.

DEFENDANT'S EXHIBIT 81.

Picture showing elevator wheel at the top of the fourth floor.

DEFENDANT'S EXHIBITS 82, 83, 84.

Pictures showing view of the metal room on the second floor. Pictures show doors of the metal room to be partly made of transparent glass.

DEFENDANT'S EXHIBITS 85 AND 86.

Pictures of the metal room closet with the door open and closed.

DEFENDANT'S EXHIBIT 87.

Blue print from which the model of the factory (Defendant's Exhibit 13) was made.

DEFENDANT'S EXHIBIT 88a, b, c, d, e.

Five jars containing contents of stomach taken from different parties who had eaten cabbage and bread.

DEFENDANT'S EXHIBIT 89.

Extract from the minutes of Walton superior court showing three indictments for larceny from the house against C. B. Dalton, at the April Term, 1894, of said court. Pleas of guilty in each indictment and a fine of $50 and twelve months in the chain gang sentence in each case. Also indictment of C. B. Dalton, at the February term, 1899, of Walton superior court for stealing bale of cotton. Plea of not guilty, and verdict of jury finding defendant guilty, recommending punishment as for misdemeanor. Fine of $20.00 and six months in chain gang.

DEFENDANT'S EXHIBIT 90.

Testimony of Newt Lee before the coroner's inquest as follows:

"He (Mr. Gantt) says, 'I would like to have them (shoes) because I got to go to work Monday.' I says 'I can't let you in there unless Mr. Frank says so.' He says, 'Is Mr. Frank there?' I says, 'Yes, if you want me I will go up and ask him.' By that time Mr. Frank comes down and runs right into Mr. Gantt, standing in the front door and he looked like he was frightened. I saw Mr. Frank was frightened, but I taken it this way, he and Mr. Gantt had fell out and he discharged Mr. Gantt and I thought that he thought by him hanging around there that he was waiting for him and had come to do him some harm. Mr. Gantt said 'I got some old shoes up there and I would like to get them.' Mr. Frank looked at him and said, 'What sort were they,' and he said they were tans. I says, 'I think I sees a boy sweep them up in the trash.' He says 'I have some black ones up there, too. 'Well,' I says, 'I don't know anything about any black shoes.' Then Mr. Gantt says 'I can go up

there and see if I can find them,' then he drops his head and looked right at me. Then Mr. Frank says, 'Newt, you carry him up there, go with him around and stay with him while he is up there,' and so we went in and went on up there and found the shoes like he says and then he asked me for some paper to wrap them up and I gave him some paper, and then I got him some twine. . . .

"I don't know when I ever seen him change that (time slip) before. He's put the tape in once before; it was one night. I never paid no attention to how long it took him. It didn't take him five minutes. I couldn't tell whether it took him a minute or not. On Saturday night, it took him a pretty good little bit, because he spoke about it. He says, 'It's kind of hard to get in.' "

DEFENDANT'S EXHIBIT 91.

Harry Scott's testimony before coroner's inquest as follows:

"He just told me that he had been down at the police barracks Monday morning and he talked to John Black, and 'John Black seemed to suspect me of the crime,' and he then repeated to me his movements on the day of the murder, that is on Saturday he reported at the office, I believe he said, at around eight o'clock in the morning, stayed there up until ten o'clock, then he went to Montag Brothers; Mr. Darley accompanied him down the street a little ways, and he continued on to Montag Bros. by himself, and returned to the factory, I believe, at 10:30; that Arthur White and Harry Denham were employed on the 4th floor of the factory, working during the morning hours, and about 12:10 this little girl, Mary Phagan, came into the office to draw her salary which he gave her ($1.20). The denominations, which he thought, were two half dollars and two dimes, and that Mary Phagan, left his private office where he paid her off, and went into the bookkeeper's office, and when she got near the door, she returned to him, and said, 'Has the metal come yet?' And Mr. Frank replied, 'No.' Then he stated that Mary Phagan went on out, and it was about 12:50 that he went upstairs to the 4th floor, where Denham and White were working and saw Mrs. White up there talking to her husband. He made the remark that he intended closing and locking the doors, and asked Mrs. White if she would leave, and also asked themen up there how near they were through their work. They told him they didn't think they could finish up right soon at that time, and he came on downstairs, and told them he was going to lock the doors when he went out. He stated that he left the factory about 1:10 p. m., went home to his dinner, returned to the factory then about 3 o'clock, and White and Denham were still on the 4th floor. He did not meet anyone going out or coming in. About 3:10 both White and Denham left the building; that Newt Lee reported to him about four o'clock, as he had instructed him to do on the day previous, that it was his intention to go to the ball game that afternoon, and when Newt Lee came there, he told him that it would not be necessary for him to work just at that particular

hour, that he could go out on the street and enjoy himself for a few hours, and return about six o'clock. Frank stayed in the building from four to six and Newt Lee returned at 6 o'clock, went on duty and Frank left the building at about 6:15. On his way out he saw Newt Lee sitting on a packing box outside the door of the factory talking to a man by the name of Gantt. Lee told Frank what Gantt was staying there for, and after considering allowed Gantt to come upstairs for a pair of shoes, that is, go up inside of the factory, but he instructed Newt Lee to stay with Gantt while he was up inside of the factory, until he left, which he said that Lee did. Frank then continued on to his home, and said that he became worried about Gantt's presence in the building, knowing that he had discharged him for some kind of fault. He continued to worry about Gantt's presence in the building and therefore called up Newt Lee on the telephone at 7:30, as he knew it was that time for Lee to punch the clock at that hour, and he would hear the telephone ringing inside of the office while he was there at the clock; although I am not sure. I think he said he made an effort to get Lee at seven o'clock and failed and finally got him at 7:30. When he called Lee on the telephone, he inquired if Gantt had left the building. Lee replied, 'Yes;' Frank then asked him if everything else was all right, to which Lee replied, 'Yes,' and he hung up the receiver and at about 9 that night he retired to go to bed; and I believe now that that's the extent of my interview with Mr. Frank. . . .

"Yes, I am working in the interest of the National Pencil Co. to ferret out who is responsible for the murder. Mr. Black and I requested Mr. Frank that he go into this private room with Lee, and endeavor to get any information that he might be withholding from either of us or the detective department, and told Mr. Frank to impress upon Lee the importance of telling the whole truth in the matter, and do whatever he could to persuade Lee to tell the absolute truth in the matter. Mr. Frank said he understood, and we sent him in to talk to Lee. I have no way of knowing what Frank said; they were both together privately in the room there, and we had no way of knowing except what Lee told us afterwards."

DEFENDANT'S EXHIBIT 92.

Harry Scott's report to the Pinkerton Agency, as follows:

"Mr. Frank stated that on Saturday, April 26th, 1913, the factory of the National Pencil Company was closed down, and that only two of the employees reported for work the entire day, and these men were Harry Denham and J. A. White, who are employed on the 4th floor of the building. Mr. Frank stated that he was in the office up until about 1 p. m., and that at 12:10 p. m., a girl employee of the factory, named Mary Phagan, called at the office of Mr. Frank for her wages, and she received $1.20, either in one dollar bill and two dimes, or two half dollars and two dimes. Mr. Frank personally handed this girl her wages, after which the Phagan girl left Mr. Frank's office and walked

towards the door of the office adjoining Mr. Frank's office, which door leads into the factory. Miss Phagan turned to Mr. Frank and asked him if the metal had arrived yet, to which Mr. Frank replied 'No,' and the girl then went on away out of the factory, as far as Mr. Frank knows, as he did not see anything of her during the afternoon. About 12 o'clock, noon, Mrs. J. A. White entered the factory and went to the top floor where her husband, J. A. White was working, and at 12:45 p. m., Mr. Frank went to the 4th floor and in the presence of Mrs. White told Denham and White that he was going to lock the doors, and Mrs. White then left the factory, but White and Denham informed Mr. Frank that they had not finished their work and Mr. Frank then told them to remain until they had gotten through. Mr. Frank left the factory about 1 p. m. Saturday, while White and Denham were still on the top floor. Mr. Frank then went to his home, to his dinner, returning to the factory at 3 p. m., and he saw that White and Denham were about through with their work, and both of them left the factory at about 3:09 p. m. As far as Mr. Frank knows he was the only person left in the factory after that hour. On Friday, Mr. Frank had instructed his negro night watchman, Newt Lee, to report at the factory on Saturday at 4:00 p. m. on account of it being a holiday, and none of the employees working. At 4 p. m. the negro Newt Lee arrived at the factory, reporting for work to Mr. Frank, who told him that it was not necessary for him to go to work at that time, but that he could go out in the street and have a good time until about 6 p. m., and that in the meantime Mr. Frank would stay at the factory. The negro left the factory, returning again at 6 p. m., and at 6:05 p. m. Mr. Frank left the factory for his home and on his way out of the factory by the Forsyth Street door he saw the negro night watchman, Newt Lee, talking to a bookkeeper named John M. Gantt, who had recently been discharged by Mr. Frank. It developed that Gantt was asking the negro watchman, Newt Lee, to allow him to go to the second floor of the factory and secure a pair of shoes that he had left there, as he wanted to go to his home in Marietta, Georgia, and do some plowing and the negro, Newt Lee, then asked Mr. Frank if he would allow Gantt to enter the building. Mr. Frank knowing that he had discharged Gantt for thievery, hesitated about allowing Gantt to enter the building, but finally told the night watchman to let Gantt in, but to stay with him until he secured the shoes, and then see that Gantt left the building without taking anything that belonged to him. About 7:30 p. m. Mr. Frank states he called up the factory, as he knew that Newt Lee, the night watchman, was about to punch the clock at the hour and could hear the telephone bell ringing inside the office, and Newt Lee answered the telephone. Mr. Frank states that he inquired of Lee if Gantt had left the building, to which he replied in the affirmative. Mr. Frank then asked Lee if everything else was all right, to which Lee replied 'Yes.' Mr. Frank states that this was the extent of his telephone conversation with Lee.''

DEFENDANT'S EXHIBIT 93.

Testimony of Policeman Anderson before Coroner's inquest, as follows:

"The watchman told me where he was standing. He came out of the closet to fasten or button up his pants, and had his lantern sitting down right in front of him, where he had left it when he went into the closet. While he was standing up there he saw that woman. He saw it from the closet, about twenty-five feet, to where the object was. I could not see that far with the lantern that he had. With the lantern that he had I could see about ten or twelve feet, something like that."

DEFENDANT'S EXHIBIT 94.

Court proceedings under which Jim Conley was released from Fulton County jail upon petition of Solicitor Hugh M. Dorsey:

The State,

vs.

Leo. M. **Frank.**

No.

In Fulton Superior Court, May Term, 1913.

Indictment for Murder.

The petition of Hugh M. Dorsey, Solicitor General of the Atlanta Circuit, including Fulton County, respectfully shows:

1.

James Connally is a material witness for the State in the above stated case.

2.

Petitioner is apprehensive that said Connally may not be forthcoming as a witness at the trial of the above named defendant, unless detained in custody.

3.

Said Connally has been detained since May 1st, 1913, by the police authorities of the City of Atlanta, and is now in the custody of said officers, being detained by them as a witness. Since said Connally was taken into custody by said officers, Leo M. Frank has been indicted upon a charge of murder.

4.

Petitioner represents that the testimony of said Connally may be, and likely will be very material in said cause.

Wherefore, petitioner prays that said James Connally be committed to the jail of Fulton County, Georgia, there to be detained as a witness until said

case above stated shall be terminated, or until said Connally shall be otherwise released by proper order of Court.

This May 29, 1913.

(Signed), Hugh M. Dorsey,
Sol. Gen. Atlanta Circuit.

Georgia, Fulton County.

Comes now Hugh M. Dorsey, who being duly sworn, deposes and says the allegations in the above petition are true so far as they come within his knowledge, and so far as derived from the information of others he believes them to be true.

(Signed), Hugh M. Dorsey.

Attested, May 29, 1913.
John H. Jones, (Signed)
N. P. Fulton Co., Ga.

The above and foregoing petition read and considered.

Let the said James Connally be taken into custody by the Sheriff of said County of Fulton, and be confined in the common jail of said County, until discharged by further order of this court.

Let the said Connally be served with a copy of this order and the petition on which it is based. Bond for the release of said Connally may be assessed in a reasonable sum upon proper application to the Court and after reasonable notice in writing to the Solicitor General of the Circuit. It appearing to me that he does not object to this order, but consents to same.
This May 29, 1913.

(Signed) L. S. Roan,
Judge S. C. Stone Mountain Circuit,
Presiding.

The State,
vs.
Leo M. Frank.
No. 9410
Indictment in Fulton Superior Court.
Murder. May Term, 1913.

It appearing to the Court that James Connally has heretofore been committed to the common jail of Fulton County to be held as a witness in the above stated case, and to be released only on a proper order of Court;

And it further appearing that the ends of justice require that said James Connally be released temporarily to the Chief of Police of the City of Atlanta;

It is therefore orderel that Sheriff C. W. Mangum, of Fulton County, Georgia, deliver the said James Connally to said Chief of Police, James L. Beavers, or his lawful deputy, to be received back into custody at said jail when de-

livered back by said Chief of Police, the attorney for James Connally consenting and not objecting to this order, and being present.
This May 31, 1913.

(Signed), L. S. Roan,
Judge S. C. Stone Mountain Circuit,
Presiding.

This is consented to by me
(Signed) William M. Smith
Attorney for James Connally.

Georgia, Fulton County.

To Hon. L. S. Roan, Judge of the Stone Mountain Circuit,
Presiding in the Superior Court, Criminal Division:—

The petition of Hugh M. Dorsey, Solicitor General of the Atlanta Circuit, respectfully shows:—

1.

On May 29, 1913, this court, on petition of the above named Solicitor General,—representing that James Connally was a material witness for the State in the case of THE STATE vs. LEO M. FRANK, under indictment for murder, and that said James Connally would probably not be forthcoming to respond to a subpoena in said case,—ordered said James Connally held until further order of court as a witness in the above stated case, and to be confined in the county jail and subsequently upon petitioner's request made at the instance of said Connally and his attorney, said Connally was allowed held by the police authorities of the City of Atlanta.

2.

Petitioner is satisfied that the necessity for holding said James Connally under the orders heretofore granted on the aforesaid petition as a witness in said case no longer exist.

3.

Wherefore, petitioner prays that the orders heretofore granted in said cause be revoked, and that said James Connally be discharged from custody under said orders.

(Signed) Hugh M. Dorsey,
Sol. Gen. Atlanta Circuit.

Gorgia, Fulton County.

Read and considered, it is ordered that this petition and order be filed and duly served upon other claimed suspects in connection with the Phagan murder, and confined in common jail of said County, to wit, Leo M. Frank and Newt Lee, both either personally or by serving their attorneys, and any other citizen of said County who may receive this notice by publication or other-

wise, may show cause before me, Friday, the 13th day of June, at 10 o'clock A. M., at my chambers in Thrower Building, Atlanta, Ga. Notice to be served by the sheriff or one of his deputies by leaving copy of this petition and order, at once.
June 11, 1913.

(Signed) L. S. Roan.

Service acknowledged and further service waived. The confinement of said James Connally in the Police station was at my request and at the request of my client James Connally and I agree for said Connally to remain in custody of the police authorities until the trial of Leo M. Frank or until the indictment of said Connally. I agree to his confinement because he is a material witness for the State and I desire his confinement at the police station, because of repeated attempts on the part of visitors at the jail to torture and intimidate said James Connally and to safeguard said James Connally from perjured admissions, supposed to have been made by him, I waive his presence at the time of this trial.
This June 11, 1913.

(Signed) Wm. M. Smith,
Attorney for James Connally.

Georgia, Fulton County.

Comes Newt Lee, by his attorney, Bernard L. Chappell, and in pursuance of an order made by L. S. Roan, Judge of the Superior Court, Criminal Division of said County, on the 11th day of June, 1913, hereby acknowledges service of said order as referred to the said Newt Lee, who is being held in the Fulton County common jail upon the order of Paul Donehoo, coroner of said county as a suspect in the Mary Phagan murder case.
June 12, 1913.

(Signed) Bernard L. Chappell,
Attorney for Newt Lee.

Georgia, Fulton County.

I have this day served L. Z. Rosser, Atty. for Leo M. Frank, personally with a copy of the within order.
This June 12, 1913.

(Signed) T. A. Burdett,
Deputy Sheriff.

Georgia, Fulton County.

State of Georgia, No. Fulton Superior Court.
vs. Criminal Division, Indictment for Murder.
Leo M. Frank.

And now comes James Conley, and in answer to the rule nisi issued in the above case, shows to the court as follows:

1. Respondent admits that he is now held in custody under orders of this Court, at the police prison of the City of Atlanta, having been originally held

in the prison of Fulton County, also under order of this Court, the cause of said commitment by this Court of respondent, being the allegation that Respondent is a material witness in the above case, in behalf of the State, and it is desired to insure the presence of Respondent at the trial of the above case.

2. Respondent admits that he is now at the City police prison at his own request and instance, and through the advice and counsel of his attorney.

3. Respondent shows to the court that the City police prison is so arranged and so officered, that Respondent is absolutely safe as to his physical welfare from any attack that might be made upon him; that he is so confined that his cell is a solitary one, there being no one else even located in the cell block with him; that the key to this cell block and the cell of Respondent is always in the possession of a sworn uniformed officer of the law; that under the instructions of Chief of Police Beavers, said sworn officers are not allowed to permit any one to approach this Respondent or come into his cell block, except the attorney of Respondent and such persons as this Respondent may agree to see and talk with; that Respondent so confined is protected from any physical harm and is protected from the pessibility of legal harm by others who might seek to damage Respondent by false claims as to statements alleged to be made by Respondent;

4. Respondent nor his counsel have made no request for the release of Respondent or his transfer to any other place of confinement.

5. Respondent is willing to remain indefinitely as a prisoner in solitary confinement, under any reasonable rules this court may direct, subject to any further order or direction of this Court.

6. Respondent admits that he is a material witness in behalf of the State of Georgia in this case, and admits that in the exercise of sound discretion it is proper that Respondent be held until the final trial of this or any other case growing out of the unfortunate death of Miss Mary Phagan, but this Respondent denies that in the exercise of sound judicial discretion, it is necessary for this Court to order Respondent held at any particular prison.

7. Respondent denies that this Court has legal right in the exercise of sound judicial discretion to order this Respondent held as a witness in behalf of the State, when it is shown to this Court, as it is shown beyond peradventure of a doubt, that there is no possibility for this Respondent not to be present and subject to call as a witness in behalf of the State, since he is held in complete and perfect imprisonment, and there being no possible theory that the ends of justice will be thwarted, and all of these facts being without the slightest possible question, there is no reason for any order of this Court, committing Respondent.

8. Respondent is advised and believes that the Counsel for the Defendant in this case has been within the last few days studying the law very thoroughly bearing on the question of holding of this Respondent as a material witness in behalf of the State, at any other place than the County Prison, and also immediately finds move on foot to have Respondent returned to the County prison, and this Respondent is advised by his Counsel that it is the belief of his Counsel that the idea of transfer back to the County Prison has under it, plans laid by persons unfriendly to the interests of this Respondent and friendly to the interests of the Defendant in this case.

9. Respondent denies that the law vests in this Court, the right of committal as a witness in behalf of either side, under the facts and circumstances of this or any other case.

10. Respondent shows that the conditions at the County Jail are such that the interests of justice as far as this Respondent is concerned can not be well safeguarded and the interest of Respondent and the interest of justice are greatly threatened by the return of this Respondent to the County Jail.

11. Respondent shows that through no fault of the County Sheriff, a sufficient inside force of guards has not been provided by the County authorities, only one man being paid by the County to guard twenty cell blocks distributed in twenty wings and over five floors; that it is a physical impossibility for this one man to keep up or even know what is transpiring on five different floors or twenty separate immense wall and steel blocks, distributed through a large building; that with this inadequate force, which this respondent is advised the Sheriff of this County has complained about, it is an absolute impossibility for the best sheriff in the world or the best trained deputies to know exactly what is going on at any and all times or any reasonable part of the time; that the keys to practically all of the cell blocks are carried by "convicted criminals," known as "trusties," who turn in and out parties entering or leaving cell blocks, and while they have general instructions covering their duties, it is an impossibility for the inside deputy to know whether each is discharging his duty properly at all times; that the food is prepared and distributed in the County prison itself and practically by "convicted criminals" whose disregard for law and principle is written upon the criminal records of this State; that owing to this condition men have been kwown to saw through solid steel bars and cages and escape to freedom; that it would be easy for anyone to reach or harm Respondent or to poison him through his food; that the "trusty turnkeys" who are convicts can easily swear as to admissions against the interest of this Respondent, even though such admissions might not be made; that the friends of the defendant in this case are allowed to pour constantly into the jail at all hours of the day and up to a late hour of the

night, and are in close touch with many of these "trusty turnkeys," and "trusty attaches" of the jail; that while a prisoner at the County Prison before his transfer to the City Prison, a goodly number of people were admitted to the cell block to talk with Respondent, whose presence was not requested or desired; that among these visitors was one whom this Respondent has every reason to believe was working in the interest of the Defendant; that this party presented Respondent with sandwiches which this Respondent did not eat, that this same party also offered to present Respondent with whiskey; that Respondent was theratened with physical harm while in the County prison to the extent of the possibility of taking his life; that he was denounced as a liar, relative to his testimony in this case; and this Respondent is sure without the knowledge or through the neglect of the Sheriff or any of his men, but directly attributable to the construction physically of the county prison and the inadequate force allowed the Sheriff to oversee and care for it; that Respondent is advised and believes that one of the parties friendly to the Defendant is already priming himself to swear that Respondent made certain admissions while he was in the County prison, which this Respondent did not make, and which testimony will be false, but will be given, if given to help the defendant and damage this Respondent.

12. That this Respondent was imprisoned while in the County Prison directly over the cell block in which said Defendant is detained and was lodged among the most desperate criminals, one even being under sentence of death, and willing no doubt to swear or do anything necessary to help or prolong his life, that these desperate criminals, with whom this Respondent was lodged, had this Respondent completely at their mercy and could swear that he admitted things most damaging, and which would be false and untrue and known by them to be false and untrue.

13. That Respondent is advised and believes that the Sheriff of this County has publicly proclaimed that the Defendant looks him in the eye like an innocent man; that the Sheriff has given said Defendant an entire cell block and has isolated him completely except from his friends; that the Sheriff has expressed himself as not desiring that nigger returned to the County Prison, meaning Respondent; that the Sheriff appears to feel that the requests made by Respondent are meant as a reflection upon the Sheriff, but same was not so intended to be construed, nor was same so represented to the Court at the time of the transfer, nor was any such allegation made before the Court, at the time of the passage of the second order transferring Respondent back to the City Prison, nor does Respondent believe that same was in mind of the Court at the time of the passage of the order or influenced the Court; but that the inadequate force allowed the Sheriff and the construction of the Jail rendered this request by Respondent necessary, and same was made to this Court, with no statement of facts, other than it was requested

by Respondent and in the judgment of the representatives of the State there was necessity for the same.

Wherefore this Respondent agrees, to the passage of an order revoking former orders in this case, and waves his presence at the Court, upon a hearing of same.

(Signed) Wm. M. Smith,
Attorney for James Conley.

Georgia, Fulton County.

Personally appeared before me, the undersigned attesting officer, James Conley, who after being duly sworn deposes and swears that the facts set out in the above and foregoing response so far as they come within his own knowledge are true and where derived from the information of others he believes them to be true.

(Signed) James Conley.

Sworn to and subscribed before me
this June 13, 1913.
C. C. Tedder,
Notary Public, Fulton County, Ga.

IN RE:

Application of Hugh M. Dorsey, Solicitor-General to release James Conley from Legal Custody.

In answer to the petition and order in the above stated cause, served upon us, as attorneys for Leo Frank, we herewith answer and show cause as follows:

1. If the intention of the Solicitor General is to discharge this negro from custody because (a) he is in fact not a material witness against Frank or (b) although he is a material witness, his integrity and character are such that he ought to have his liberty and be trusted to obey the subpoena of this court, then, considered as a witness only, he ought to be discharged and indeed he should not have been imprisoned at all. But in such case to enact the farce in the court's presence of releasing the negro and immediately return him to his wet-nurses, at the Police Station, would resemble child's play.

2. But if the Solicitor believes that one of a number of contradictory statements made by this negro may, if properly preserved, be made valuable in the prosecution of Frank, and that the negro may destroy its value if left free to talk, and in order to stop his mouth it is necessary that the detectives should keep him in charge, then we think we have the right to protest against any order of a court of justice that winks at such a purpose.

3. We are constrained to the conclusion that it is not the purpose for any reason to release this negro, but, by obtaining the order here sought, continue the present, illegal confinement.

4. But Frank is himself deeply interested in this proceeding. That the consent of the Solicitor and the will of the negro is all that is required to reverse the will of the law, is erroneous. The State has the right in the interest of justice to put a witness in custody, but where in custody and in whose custody is of the highest importance. The law has given such custody to the Sheriff and wisely so. The Sheriff is not a prosecutor; the jail itself is not usually a place of punishment, but a temporary place of detention. The Sheriff is supposed to stand impartially between the State and his prisoners, and may be trusted neither to cajole, threaten, nor suppress any testimony by third degree methods. The law never meant to place a witness, who, for lack of character, needs confinement under the control of a partisan prosecutor.

5. That the detectives should wish to keep Conley in custody and entertain him at the city's expense, is not at all surprising. They have already extracted from him extravagant, unthinkable confessions, three or four in number. To these statements they have given the widest publicity, and to the credibility of the last one they have staked their reputations and hope of place.

Upon the constancy and stability of this witness, they have staked their all. They would be less than human if they did not bend all their power and ingenuity in holding him to his present statement, adding to and taking therefrom only such things as will aid its credibility.

Can any fair-minded man believe that Lanford is a fair man to be the custodian of this ignorant negro? What chance would he have to retract any lies he may have told, or if in a repentant mood, he should wish to tell the truth? This negro in the city prison, in the power of Lanford, apart from all questions of truth, would be just as dangerous as Lanford would wish him to be. No one knows that better than Lanford, and no one would feel it as acutely as will this negro.

How well Lanford knows it, can be seen from his interview in the Atlanta Georgian of June 12th. In that interview he demonstrated that he thinks he has full, unrestricted ownership of this negro. He graciously expresses his willingness for this negro to go before the Grand Jury upon such terms as he suggests. Neither the negro, nor the negro's lawyer, nor the Grand Jury is considered. Nor was this court to be consulted—his will and not the order of this court was to determine when and under what circumstances the negro should leave the Police Station.

If Lanford vaunts in the face of jury and court, his power over this negro, what must be his bearing when he deals privately with the negro himself?

What chance has he to abstract a lie or add a truth to the foolish statement which Lanford approves and wishes to maintain? If this man will, when he is holding this negro under your Honor's order, declare such ownership over this negro's person and movements, to what legnth would he go if the court releases its power over him and turns him over to Lanford's unrestricted power?

6. It is just to Frank, as well as in the interest of public justice, that this negro should be detained by unbiased, fair men, whose reputations and positions are not at stake. The law recognizes this right and has put that duty upon the Sheriff. Will there be less fairness and less decency in the county jail than in the police station? When did Lanford become a wiser, fairer, better man than the Sheriff of this County?

7. Apart from this negro's position as a witness, his detention in the custody of the detectives would be a public calamity. Many unbiased people believe this negro is the murderer of little Mary Phagan. The facts of the case, apart from his own confession, point most strongly to him as the guilty man:

(a) On the day of the murder he was drunk and concealed himself in a position where he could readily commit the murder.

(b) On Monday morning he was unduly excited, so much so as to arouse the suspicions of the employees.

(c) When the police were in the building, he was caught hiding in an obscure part of the factory where he had no business.

(d) When questioned about this conduct, he said he would give a large sum to be a white man. When asked why, he said he could then get safely past the police.

(e) He, for a long time persistently denied that he could write and did not admit that he could until longer denial was useless.

(f) He was caught washing a shirt, a thing he had never done before, and when caught, gave a foolish excuse.

(g) He denied all participation in, or knowledge of the crime until he was driven by the charge that he wrote the notes found near the body.

(h) On May 18, he made a signed statement outlining his actions on April 26, making no mention of the murder.

(i) On May 24, he made an affidavit. He said that on April 25th, before the murder on April 26th, he wrote the notes at the request of Frank, for which Frank gave him cigarettes and $2.50 and added statements about Frank's people in Brooklyn and an inquiry by Frank as to why he should hang.

(j) On the 28th of May, Conley made a long affidavit, full of contradictions and absurdities, beginning it as follows:

"I make this statement, my second statement in regard to the murder of Mary Phagan at the National Pencil Company factory. In my first statement, I made the statement that I went to the pencil facory on Friday, April 25th, and went in Frank's office at five minutes to one, which is a mistake. I make this statement in regard to Friday in order that I might not be accused of knowing anything of this murder, for I thought if I put myself there on Saturday they might accuse me of having a hand in it, and I now make MY SECOND AND LAST STATEMENT regarding the matter freely and voluntarily, after thinking over the situation, and I have made up my mind to tell the whole truth and I make it freely and voluntarily without the promise of any reward or from force or fear of punishment in any way."

(k) After this beginning he sets out with variations the writing of the notes on Saturday instead of on Friday, and in a long rabbling statement his movements at home and on Peters Street on Saturday and on Monday at the factory, most of which is wholly disconnected with the murder.

(l) On May 29th, 1913, although he had already sworn that he made "his true, full and last statement," he made another statement in which he purported to aid Frank in concealing the body of Mary Phagan. This statement is full of contradictions and wholly irreconcilable with itself and with the known facts surrounding the murder.

(m) He closes this remarkable affidavit in the following words: "The reason I have not told this before is that I thought Mr. Frank would get out and help me out, but it seems that he is not going to get out, and I decided to tell the whole truth about the matter."

8. These incoherent, jibbering statements will, it is believed, impress the Grand Jury if the negro Conley's case is submitted to it.

9. The Grand Jury can be trusted to scan these queer statements in the light of all the surrounding facts and circumstances and taken in connection with all the other facts implicating Conley, they proclaim his guilt beyond all reasonable doubt.

10. The detectives, obsessed as they are with the assumption that Conley is a tool and not a murderer, are unfit to keep him in their sole and unlimited power. Under their protecting care, Conley, instead of being left to tell the truth, will at length deceive himself into the belief that instead of being a murderer he is an unfortunate victim.

11. That Conley and his counsel wish it, is the best reason why it should not be done. As long as he sticks to a story pleasing to the detectives, or

builds up that story as additions may be needed, he is assured that the detectives will save him as far as possible from court and Grand Jury, and will, so far as they can, fix upon him no greater crime than that of a misdemeanor.

12. Conley and his counsel are wise. There is for them no other hope than for the detectives to keep Conley and save him from a confession that he committed the crime, giving him immunity, provided he continues to put the guilt on Frank.

Respectfully submitted,
Rosser & Brandon,
Attys. for Leo Frank.

Order granted that said James Conley be discharged as prayed and all orders, as set out in petition cancelled that were signed heretofore by me. This June 13, 1913.

(Signed) L. S. Roan,
J. S. St. Mt. Ct., Presiding.

The within and foregoing pages are hereby approved as a true, correct and complete brief of the evidence in the case therein (and at the caption thereof), referred to.

Oct. 31, 1913.

(Signed) L. S. ROAN,
J. S. C. St. Mt. Ct.

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